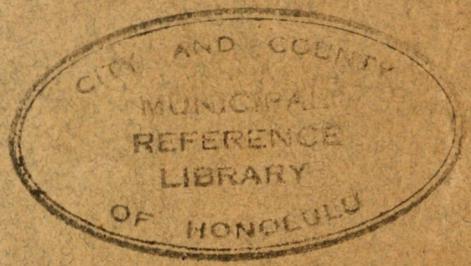


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CITY AND COUNTY OF HONOLULU GOVERNMENT

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123 FROM the beginning Power

Organic Act. SEC. 55 Legislative

Water Supply Dept. Ch. 288 City and County.

Legal Congress act. NO 22 City and County attorney.

Public land NO 31 SEC. 3183.

water supply NO. 55. Control artesian wells.

Utilities NO. 60. Sec. 3277.

commission office NO 112.

NO-135. Utilities Sec. (E).

## HONOLULU CHARTER COMMISSION

(E-242) An Act Creating a Charter Revision Commission for the City and County of Honolulu, Providing for its Appointment, Powers and Duties, and for the Submission to the Legislature of the Territory of the Proposed Charter to Be Drafted by Such Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a charter revision commission of the city and county of Honolulu for the purposes hereinafter provided. The commission shall consist of fifteen (15) members who shall be appointed by the mayor of the city and county of Honolulu with the approval of the board of supervisors, one of which members shall be named by said mayor in his appointment as chairman. Any vacancy in the membership of such commission shall be filled in the same manner as the original appointment was made. The commission may make such rules for the conduct of its proceedings as it may deem necessary or appropriate. No member of the commission shall forfeit any other office or be precluded from accepting any other office by reason of his appointment as a member of such commission.

Section 2. The commission shall make a study and analysis of the existing governmental structure of the city and county of Honolulu for the purpose of securing such factual data as will enable it to draft, and the commission is hereby directed to draft a proposed new charter, adapted to the requirements of such city and county and designed to provide for the people of such city and county a more efficient and economical form of government. Such charter shall set forth the structure of the city and county government, and the manner in which it is to operate. The study of any subject relevant to the property, affairs or government of the city and county of Honolulu, or of the laws relating thereto, or of any matter or thing deemed by the commission to be pertinent thereto, shall be deemed within the scope of the commission's work hereunder.

Section 3. The commission may hold public hearings at any place in the city and county of Honolulu and shall have power to administer oaths, take testimony, issue subpoenas and compel the attendance of witnesses and the production of books and papers so far as may be necessary for the performance of its duties. The commission shall have access to the books, papers, records and documents of each and every office, officer, board, bureau, body, department, division, authority, district or other agency of the city and county of Honolulu. The commission shall receive such assistance from any city and county officer or employee without extra compensation, as it may request to carry out its functions, notwithstanding any provisions of law to the contrary. The commission shall have power to appoint and at pleasure to remove a counsel and a stenographer and such assistants, employees and experts as it shall deem necessary, and to fix their compensation.

Section 4. The members of the commission shall receive no compensation but shall be entitled to be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties hereunder.

Section 5. The proposed charter shall be submitted to the next regular session of the legislature, at which time the terms of office of the members of the commission shall expire.

Section 6. The board of supervisors of the city and county of Honolulu is hereby authorized, empowered and directed to appropriate and make available to the commission a sum of money sufficient to defray the expenses of the commission in the performance of its duties under this Act. Such moneys shall be paid out of the treasury of the city and county of Honolulu on the certificate of the chairman of the commission after audit by and on the warrant of the auditor of the city and county of Honolulu.

ORGANIC ACT

LEGISLATIVE POWER

Sec. 55. (In Part). "Nor shall the government of the Territory of Hawaii, or any political or municipal corporation or subdivision of the Territory, make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall any debt be authorized to be contracted by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, harbor, and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any such subdivision shall not exceed one per centum of the assessed value of the property in the Territory or subdivision, respectively, as shown by the then last assessments for taxation, whether such assessments are made by the Territory or the subdivision or subdivisions, and the total indebtedness of the Territory shall not at any time be extended beyond ten per centum of such assessed value of property in the Territory and the total indebtedness of any such subdivision shall not at any time be extended beyond 5 per centum of such assessed value of property in the subdivision, but nothing in this Act shall prevent the refunding of any indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or any part thereof; nor shall any bond or other instrument of any such indebtedness be issued unless made payable in not more than thirty years from the date of the issue thereof; nor shall any issue of bonds or other instruments of any such indebtedness be made after July 1, 1926, other than such bonds or other instruments of indebtedness in serial form maturing in substantially equal annual instalments, the first instalment to mature not later than five years from the date of the issue of such series, and the last instalment not later than thirty years from the date of such issue; nor shall any such bond or indebtedness be issued or incurred until approved by the President of the United States".

TOWN, CITY, AND COUNTY GOVERNMENT

Sec. 56. That the legislature may create counties and town and city municipalities within the Territory of Hawaii and provide for the government thereof, and all officials thereof shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislature of the Territory.

CITY AND COUNTY OF HONOLULU

HONOLULU GOVERNMENT

<u>Ch.</u>		<u>Secs.</u>
88	CITY AND COUNTY OF HONOLULU.....	3000-3126
	Boundaries.....	3000-3001
	Rights and Liabilities.....	3002-3004
	Legislative Department.....	3005-3020
	Powers of Supervisors.....	3021-3028
	House Numbers, Honolulu.....	3029-3035
	City and County Officers.....	3036-3038
	Qualifications of Employees.....	3039-3041
	Bonds.....	3042-3045
	Salaries.....	3046-3046 J
	Elections.....	3047-3055
	Contests.....	3056-3059
	Removal of Officers.....	3060-3061
	Mayor.....	3062-3067
	Auditor.....	3068-3077
	Treasurer.....	3078-3092
	Attorney.....	3093-3097
	Public Prosecutor.....	3098-3102
	Clerk.....	3103-3104
	Department of Public Works.....	3104A-3104 C
	Sheriff.....	3105-3109
	Deputy Sheriff.....	3110
	General Provisions.....	3111-3126
89	BILLBOARD REGULATIONS.....	3140-3154
90	CIVIL SERVICE, FIRE DEPARTMENT.....	3160-3166
90 A	HONOLULU FLOOD CONTROL.....	3167-3167 C
91	HIGHWAYS, EXTENSION OR WIDENING OF CERTAIN STREETS.....	3170-3176
	Extension.....	3170-3172
	Widening.....	3173-3176
92	HIGHWAYS, IMPROVEMENT BY ASSESSMENT.....	3180-3214
	Refunding bonds.....	3207-3214
93	PARK BOARD.....	3220-3235
94	POLICE DEPARTMENT.....	3240-3255
95	WATER SUPPLY, BOARD OF-ARTESIAN WELLS.....	3260-3291
	Board of Water Supply.....	3260-3280
	Artesian Wells.....	3281-3291

PROVISIONS COMMON TO COUNTIES, INCLUDING CITY AND COUNTY.

<u>Ch.</u>		<u>Secs.</u>
77	EMINENT DOMAIN.....	2300-2302
78	GENERAL PROVISIONS.....	2310-2321
	Reports by Auditor.....	2313
	Notarial Powers.....	2314
	Expenditures by Officers, Etc.....	2315
	Gamewell Act	
	Franchise Fees, Disposition of.....	2316
	Deposits.....	2317-2318
	Miscellaneous.....	2319-2321
79	HIGHWAYS, SIDEWALKS, PARKS, ETC.....	2340-2395
	Highways, defined; Control, Etc.....	2340-2344
	Dedication.....	2345-2347
	New Streets; Honolulu, Hilo.....	2348-2350
	Maps, Milestones, Guide Posts, Names.....	2351-2357
	Sidewalks.....	2358-2364
	Honolulu Sidewalks; Improvement Districts, Cleaning...	2365-2367
	Public Parks.....	2368-2369
	Use, Preservation, Certain Streets, Etc.....	2370-2389
	Trees.....	2390-2392
	Crossings.....	2393-2394
	Gates.....	2395
	Father Damien Memorial.....	2396
	Hawaii Housing Authority.....	2397A-2397I
80	LICENSES.....	2400-2532
	General Provisions.....	2400-2416
	Ball or Marble Machines.....	2416A-2416B
	Auction.....	2417-2432
	Billiards and Bowling Alleys.....	2433-2435
	Butcher; Beef, Pork.....	2436-2439
	Collection Agencies.....	2440-2442
	Detectives, Private.....	2443-2446
	Emigrant Agents.....	2447-2455
	Employment Agencies.....	2456
	Explosives, Sale of.....	2457-2461
	Fishing and Hunting.....	2462-2468
	Fish Traps, Pounds and Weirs.....	2469-2470
	Food Products.....	2471-2472
	Laundry.....	2473
	Lodging or Tenement Houses, Hotels Boarding Houses and Restaurants.....	2474-2481
	Milk.....	2482-2484
	Notaries Public.....	2485
	Outdoor Advertising.....	2486-2491
	Pawnbrokers.....	2492-2497
	Peddlers.....	2498-2499

<u>Ch.</u>		<u>Secs.</u>
	Peddling Cake .....	2500
	Poisonous Drugs.....	2501-2503
	Public Shows.....	2504-2508
	Second-Hand Dealers.....	2509-2511
	Solicitors.....	2512-2516
	Steam Laundries, Honolulu.....	2517-2520
	Surety, Bail Bond.....	2521-2523
	Tobacco, Cigars and Cigarettes.....	2524-2526
	Vehicles and Drivers for Hire.....	2527-2532
81	FIREARMS AND AMMUNITION.....	2540-2557
	Business Licenses.....	2554-2557
82	INTOXICATING LIQUORS.....	2570-2642
	Commissions; General.....	2572-2579
	Licenses and Permits.....	2580-2595
	Procedure for Obtaining License.....	2596-2605
	Duties of and Supervision <b>Over</b> Licensee.....	2606-2623
	Revocation of License.....	2624-2629
	General Provisions and Prosecutions.....	2630-2642
83	MOTOR VEHICLES; CHAUFFEUR'S LICENSE;	
	Registration.....	2650-2676
	Part 1. Chauffeurs.....	2650-2663
	Part 2. Registration.....	2664-2676
84	UNIFORM AUTOMOBILE LIABILITY SECURITY.....	2680-2706
85	WEIGHTS AND MEASURES .....	2710-2722

Boundaries

Sec. 3000. Description. All that portion of the Territory commonly known as the island of Oahu and all other islands in the Territory not included in any county and the waters adjacent thereto, shall be and is constituted a city and county by the name of "The City and County of Honolulu," with its seat at Honolulu; and the words "city and county" shall mean "the city and county of Honolulu."

Sec. 3001. City of Honolulu; geographical limits. For statistical and similar purposes, to distinguish urban and rural communities, the expression "City of Honolulu" shall mean the same territory as is known as "Honolulu District," that is to say, in the island of Oahu from Maunaloa to Moanalua inclusive, and the islands not included in any other district of the island of Oahu.

Rights and Liabilities

Sec. 3002. General powers. The city and county is created a municipal corporation under the name of "The City and County of Honolulu," and by that name shall have perpetual succession; may sue and be sued in all courts and places and in all matters and proceedings; may have and use a common corporate seal with power to break, renew and alter the same at pleasure; may purchase, receive, hold and enjoy real and personal property for public purposes; receive bequests, gifts and donations of all kinds of property, in fee simple, or in trust for charitable and other purposes, and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

Sec. 3003. Successor of county of Oahu. The city and county shall continue to have, hold and enjoy all property, rights of property, rights of action, and all rights, privileges and powers of every nature and description of the county of Oahu, and is declared to be the successor of the county.

Sec. 3004. Suits by and against. Suits, actions and proceedings may be brought in the name of the city and county for the recovery of any property, money or thing belonging thereto, in law or equity, or dedicated to public use therein, or for the enforcement of any rights of, or contracts with, the city and county, or county of Oahu.

Suits, actions and proceedings may likewise be brought against the city and county, at law or in equity, for the recovery of any money, property or thing belonging to any person, corporation, or the Territory, or for the enforcement of any rights of, or contracts with, or damages against, the city and county, or the heretofore existing county of Oahu.

LEGISLATIVE DEPARTMENT

Sec. 3005. Board of supervisors. The legislative power of the city and county shall be vested in a legislative body, which shall be designated the board

of supervisors. Such body is also designated the supervisors.

Sec. 3006. Number, quorum. The board of supervisors shall consist of seven members. A majority of all the members of the board shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as the board may prescribe.

Sec. 3007. Assistants to board, rules, journal, behavior. The board shall: (1) Appoint such committee clerks and other assistants as may be deemed necessary; (2) establish rules for its proceedings; (3) keep a journal of its proceedings. The ayes and noes shall on demand of any member be taken and entered therein; (4) have authority to punish its members for disorderly or contemptuous behavior in its presence and to expel any person from attendance at its meetings who shall be guilty of disorderly, contemptuous or improper conduct at such meetings.

Sec. 3008. Presiding officer. The mayor shall be the presiding officer of the board of supervisors. In the absence of the mayor the board shall appoint a presiding officer pro tempore from its own members, who shall have the same right to vote as other members.

Sec. 3009. Meetings. The board shall hold regular meetings on the first Tuesday after the first Monday and on the third Tuesday of each month, or if either day be a legal holiday, then on the next day. The board shall not adjourn to any other place than to its regular place of meeting, except in case of great necessity or emergency. The meetings of the board shall be public.

Sec. 3010. Ordinances, enacting clause. Every legislative act of the city and county shall be by ordinance. The enacting clause of every ordinance shall be in these words: "Be it ordained by the people of the city and county of Honolulu." No ordinance shall be passed except by bill, and no bill shall be so amended as to change its original purpose.

Sec. 3011. Ordinance or resolution passed how. No bill shall become an ordinance, nor resolution be adopted, unless finally passed by a majority of all the members of the board and the vote be taken by ayes and noes and the names of the members voting for and against the same be entered in the journal.

Sec. 3012. Revision or amendment of ordinances. No ordinance shall be revised, reenacted or amended by reference to its title; but the ordinance to be revised or reenacted, or the section or any paragraph thereof amended, shall be reenacted at length as revised and/or amended; provided, however, that the ordinance as a whole may be revised or codified and adopted and reenacted as revised or codified by an ordinance passed for that purpose.

Sec. 3013. Title of ordinance. An ordinance shall embrace but one subject, which subject shall be expressed in its title. If any subject be embraced in an ordinance and not expressed in its title, such ordinance shall be void only as to so much thereof as is not expressed in its title.

Sec. 3014. Reconsideration, time for. When a bill is put upon its final passage in the board and fails to pass, and a motion is made to reconsider,

the vote upon such motion shall not be acted upon before the expiration of twenty-four hours after adjournment. Every ordinance shall, after amendment, be laid over for one week before its final passage.

Sec. 3015. No warrant without appropriation; exception. No city and county warrant shall be drawn and no city and county money shall be expended unless the same shall have been previously appropriated for the purpose by bill or resolution of the board; provided, however, that in cases of great necessity the officers and heads of departments may, with the consent of the mayor, expend such sums of money, not to exceed four hundred ninety-nine dollars in any one case, as shall be necessary to meet the requirements of the necessity.

Sec. 3016. Publication before final action. Every bill or resolution providing for any specific improvement, except as modified by chapter 92, or involving the lease, appropriation or disposition of public property, or the exercise of the power of eminent domain, and every ordinance providing for the imposition of a new duty or penalty, shall, after its introduction, be published in a daily newspaper with the ayes and noes once (Sundays and legal holidays excepted) three days before final action upon the same. If such bill or resolution be substantially amended, the bill or resolution as amended shall be advertised for a like period before final action thereon. Nothing herein shall prevent adoption of a revision or revisions of the city and county ordinances by a bill incorporating such revision by reference.

Sec. 3017. Veto appropriation items. If any bill be presented to the mayor containing several items appropriating money he may object to one or more items separately, while approving other portions of the bill. In such case he shall append to the bill at the time of signing it a statement of the item or items to which he objects and the reasons therefor, and the item or items so objected to shall not take effect unless passed notwithstanding the mayor's objection. Each item so objected to shall be separately reconsidered by the board in the same manner as bills which have been disapproved by the mayor.

Sec. 3018. Publication of ordinance after approval. No ordinance shall take effect until after its publication, unless otherwise provided in such ordinance. Every ordinance shall be published once in a daily newspaper after its approval.

Sec. 3019. Approval or veto. Every bill and every resolution as hereinbefore provided, which shall have passed the board and shall have been duly authenticated, shall be presented to the mayor for his approval. The mayor shall return such bill or resolution to the board within ten days after receiving it. If he approve it he shall sign it and it shall then become an ordinance. If he disapprove it he shall specify his objections thereto in writing. If he does not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. The objections of the mayor shall be entered at large in the journal of the board, and the board shall, after five and within thirty days after such bill or resolution shall have been so returned, reconsider and vote upon the same. If the same shall, upon reconsideration, be again passed by the affirmative vote of not less than five members of the board, the presiding officer shall certify that fact on the bill or resolution, and when so certified, the bill shall become an ordinance with like effect as if it had been approved by the mayor. If the bill or resolution shall fail to receive the vote of five members of the board it shall be deemed finally lost. The vote on such reconsideration shall be taken by ayes and noes and the names of the members voting for and against the same shall be entered in the journal.

Sec. 3020. Repeal. No ordinance shall be repealed except by ordinance adopted in the manner hereinbefore set out, and such ordinance shall be presented to the mayor for his approval as hereinbefore provided.

POWERS OF THE SUPERVISORS

Sec. 3021. General powers. Except as otherwise provided by law, the board of supervisors shall have power:

1. To make and enforce within the limits of the city and county all necessary ordinances covering all local police matters and matters of sanitation, inspection of buildings, condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, cemeteries, burying grounds, interment of dead and morgues, the collection and disposition of rubbish and garbage and the defining of, regulation, restriction and control of the location, building and use of tenements; to provide for the appointment of city and county physicians and sanitary and other inspectors as may be necessary to carry into effect ordinances made as aforesaid, who shall have the same power as given by law to agents of the board of health; subject only to such limitations as may be placed on them by the terms and conditions of their appointments.

2. To regulate and control for any and every purpose, the use of the streets, highways, public thoroughfares, public places, alleys and sidewalks of the city and county.

3. To fix the limits within which wooden buildings or structures shall not be erected; placed or maintained, and to prohibit the same within such limits. Such limits when once established shall not be changed except by extension.

4. To prescribe and regulate the method and style of construction of carpenter, machine, blacksmith and other work shops, foundries, bakeries and other factories, laundries, poi-shops, abattoirs, fish-markets and places where noisome trades or manufactures are carried on, hotels, tenements, lodging-houses, theatres, halls and place of public resort.

5. To regulate and prescribe the construction of chimneys and smoke-stacks and to compel the building and cleaning of same, and to regulate and prevent the emission of dense smoke or poisonous gases therefrom and to declare the same a nuisance.

6. To prescribe and regulate the places where and the conditions under which carpenter, machine, blacksmith and other work shops, foundries, bakeries and other factories, laundries, poi-shops, abattoirs, fish-markets and places where noisome trades or manufactures are carried on, hotels, tenements, lodging-houses, theatres and halls and places of public resort may be erected, maintained, used or operated; and locations where dairies, stables and pastures and places for the keeping of animals may be maintained; provided, however, that in case of any conflict between any municipal ordinance, rule or regulation and the rules or regulations of the territorial board of health, the latter shall control and prevail.

7. To enact and to enforce all ordinances necessary to protect health, life and property, to prevent and summarily remove nuisances and to preserve and enforce the good government, order and security of the city and county and its inhabitants.

8. To regulate, as to location, methods and materials of construction

and otherwise, the erection, moving, repairing, placing and maintenance of buildings and other structures, whether within or without the fire limits, so far as may be necessary or proper for the protection and safeguarding of life, health and property.

9. To create a city planning commission to be charged with the duty of formulating rules and plans to regulate the future growth, development and beautification of the city and county of Honolulu in its public and private buildings, streets, parks, grounds and vacant lots, and to perform such other duties as the board may prescribe, and to recommend the establishment of building zones.

10. To extend the fire department or create, combine, amalgamate new fire departments and to provide for the acquisition, maintenance and use of apparatus for extinguishing fires; and to provide all necessary regulations and restrictions for the control of fire hazards and prevention of fires.

11. To regulate the use of hackney carriages and public passenger vehicles, and to fix the rates to be charged for the transportation of persons or personal baggage.

12. To provide public pounds and to make all necessary rules, regulations and restrictions in the matter of cattle, dogs and other animals and fowl running at large, and for the custody and destruction of the same.

13. To establish and maintain water works and sewer works; to collect rates for water supplied to consumers, and for the use of sewers. To take over from the Territory existing water works systems, including water rights, pipe lines and other appurtenances belonging thereto, and sewer systems; and to enlarge, develop and improve the same. To build, rebuild, equip, maintain and regulate hospitals, school houses, court houses, jails and houses of detention, punishment, confinement and reformation; and to give aid to hospitals. To assist financially such organized secular institutions, societies and associations as are engaged in charitable relief work or efforts for the suppression of undue severity or cruelty toward children or animals. To provide for the maintenance and repair of all existing school houses other than the boys' and girls' industrial schools; police stations and jails, other than the Oahu prison; fire department buildings; and court houses other than the judiciary building.

14. To regulate and require the laying of water and sewer mains in new subdivisions of land before the same are offered for sale, and to prescribe the conditions under which such mains shall be laid.

15. To enter into contracts with any and all firms, corporations, or individuals owning or controlling artesian wells, artesian water supply, or other water within the city and county, for the delivery of all or a portion of such waters, at a fair rate of compensation, into the water pipe mains of the city and county, provided, however, that no such contract shall be made for a longer term than thirty years from the date of its execution.

16. To create and organize a department to be known as the "Municipal Market," to be conducted under the control and supervision of the board for the purpose of carrying on the business of buying and selling agricultural, fishery, dairy and farm products, and for the purpose of maintaining and operating a general marketing place where persons may buy and sell such products under such rules

and regulations as may be prescribed by the board.

17. To purchase or acquire by condemnation such property as may be needed for public use. To establish improvement districts for the purpose of acquiring property for parks, playgrounds and public beaches whenever requested by the owners of at least fifty per centum of the property specially benefited, and in such case, the improvement districts shall be created in conformity with all of the provisions of Chapter 92, Revised Laws of Hawaii 1935; provided, however, that this paragraph shall not be construed as in any manner limiting the power of the board of supervisors or of the Honolulu park board to acquire property at its own pleasure for the same purpose without levying assessments.

18. To assist financially the Hawaiian promotion committee in its enterprise of fostering the development of the Territory and the city and county through the dissemination of information descriptive of the Territory.

19. To regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic and telegraphic service to the city and county; to construct, purchase, lease or otherwise acquire buildings for the city and county purpose; to construct, purchase, lease or otherwise acquire plants, apparatus and appliances for lighting streets and public buildings, and to manage, regulate and control the same, and to acquire, regulate and control any and all appliances for the sprinkling and cleaning of the streets of the city and county and for flushing the sewers therein.

20. To prescribe fines, forfeitures and penalties for the breach of any ordinance; but no penalty shall exceed the amount of one thousand dollars or one year's imprisonment, or both, prosecutions in such cases to be in the manner by law provided for the prosecution of misdemeanors.

21. To fix the fees and charges for all official services.

22. To provide for the payment of compensation to the interpreters appointed by the district magistrates of the city and county to interpret testimony in cases before such magistrates, or upon inquests and examinations. Such compensation shall not be less than one hundred fifty dollars per month for each interpreter.

23. To offer rewards not exceeding five hundred dollars in any one instance for the apprehension and conviction of any person who may have committed a felony in the city and county, and to authorize the payment thereof.

24. To provide a seal for the city and county, and seals for the several departments, boards and officers thereof.

25. Except as otherwise provided, to fix the hours of labor or service required of all employees and laborers in the service of the city and county, and their compensation; but the minimum salary for any member of the fire department shall be one hundred fifty dollars per month.

26. To set apart as a boulevard any street, or portions of a street, over which there is existing no franchise for any street railroad.

27. To provide for and allow the sale, exchange, or other disposition,

by resolution requiring one reading for its adoption, of personal property unfit or unnecessary for the use of the city and county, except where such property exceeds one thousand dollars in value in which case such resolution shall be enacted as provided in section 3016.

28. To sell at public auction, after notice by publication once a week for at least two weeks in any daily newspaper in the city and county, any real property acquired by the city and county whenever the board deems it advisable to abandon the use of such property for the purpose for which it was acquired; provided, however, that the proposed sale of any park lands must first be approved by the governor, and that the funds realized from such sale shall be expended only for the purpose of acquiring other lands to be used for park purposes; and provided further, that the proposed sale of any abandoned school site shall first be approved by the superintendent of public instruction, and that the proceeds from such sale shall be used only for acquiring land or for the erection of buildings for school purposes; and provided further, that no such real property bordering on the ocean shall be sold or otherwise disposed of.

Provided, further, that all real property acquired by the city and county by purchase at any sale for default in the payment of any improvement district assessment may by the treasurer be sold at either public or private sale; the minimum price at which each lot shall be so sold shall be determined and fixed by a committee consisting of the mayor as chairman, and the treasurer, auditor and chairman of the finance committee of the board of supervisors, of the city and county; such prices and notice that such lots are held for sale shall be published at least once in a daily newspaper of general circulation in the city and county before sale, and, in the event of a sale at public auction, the prices so determined shall constitute the upset prices for the respective lots so auctioned.

29. Subject to section 3228, to exchange lands belonging to the city and county for other lands for the use of the city and county, in the manner and as may be deemed advisable by the board; provided, however, that lands used for park or school purposes may only be exchanged for other lands for the same purpose.

30. To provide for the purchase of property levied upon or under execution in favor of the city and county; but the amount bid on such purchase shall not exceed the amount of judgment, interest and costs.

31. To make contracts and to do all things necessary and proper to carry into execution the foregoing powers and all other powers vested in the city and county or in any officer thereof.

32. To make appropriations not exceeding the sum of five thousand dollars (\$5000.00) in any one year, from any moneys in the treasury, for the purpose of public celebrations, and the entertainment of such distinguished persons as may from time to time visit the city and county.

33. To provide by ordinance for the exhibiting of moving pictures on Sundays after the hour of 12:30 P.M., and legitimate stage play productions on Sundays after 6:30 P.M., under such restrictions as they may prescribe.

34. To regulate, by ordinance, public dance houses under such restrictions as they may prescribe.

35. To make provisions for the care of indigents. The term "indigent" means a person without means of subsistence, for the support of whom no other person or agency is liable and responsible.

36. To enter into a contract for a period not in excess of ten years for the leasing with or without an option to purchase of a police flash light system and additional police call box and fire alarm circuits and equipment and for such purpose to use the permanent improvement fund.

37. The city and county shall not in any manner give or loan its credit to or in aid of any person or corporation, and any indebtedness or liability incurred contrary to this provision shall be void.

38. All contracts, authorizations, allowances, payments and liabilities entered into, granted, made or incurred in violation of this chapter, shall be void and shall not be a basis of a claim against the city and county.

39. No ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute of the Territory whether such ordinance is in conflict with any such statute or otherwise.

Sec. 3022. Leahi Home; appropriation, management. The board of supervisors is authorized and directed to set aside and appropriate annually the sum of two hundred and fifty thousand dollars for the maintenance and upkeep of Leahi Home; provided, however, that in the month of January of each year, the board of trustees of Leahi Home shall submit to the board of supervisors a budget of the estimated requirements for the current calendar year, and if such budget calls for a less amount than two hundred and fifty thousand dollars, the board of supervisors may appropriate such less amount; and provided, further, that there must be at all times a member of the board of supervisors and the president of the board of health of the Territory on the board of trustees. The amount herein required to be appropriated each year, or so much thereof as may be necessary, shall be included in the tax rate for real property taxes for such year in the city and county. The board of supervisors is authorized and directed to include said sum in the annual budget of the city and county.

The auditor of the city and county is authorized and directed to draw warrants upon the city and county treasurer the first of each month for one-twelfth of such sum, in favor of the Leahi Home.

The board of trustees of the home shall make a monthly report and an annual report to the mayor and board of supervisors showing in detail its expenditures.

Sec. 3023. Polo field. The city and county is authorized to lease for a period not to exceed fifteen years, and upon such terms and conditions as it shall determine, a portion of the area comprised within the limits of Kapiolani park in the city and county for the construction and maintenance thereon of a polo field and the necessary or proper accessories for such field and for the games to be played thereon; provided, however, that such lease shall contain the condition that no structures of a permanent nature shall be erected by the lessee within the limits of the park makai of Paki Avenue.

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CITY AND COUNTY OF HONOLULU

Sec. 3024. Fiscal year defined. In the city and county, the fiscal year shall commence on January 1 and end on December 31 of the same year.

Sec. 3025. Balances at end of fiscal year. All balances remaining in the general, special, or other specific fund in the city and county treasury shall, at the end of any fiscal year, be available for appropriation and expenditure from such general, special or other specific fund respectively, for the specific purposes of such specific fund only, during the succeeding fiscal year.

Sec. 3026. Interim expenses. The failure of the board to provide appropriations for salaries, pay-rolls, and current expenses, covering the personnel of the administrative offices and employees in the city and county during the interim intervening between the end of any fiscal year, and the date upon which the appropriation for the succeeding fiscal year goes into effect by proper resolution, shall not be taken to interfere with or make criminal any act for the continuation of the business of the city and county or the incurring of any expenses during such interim, and the payment of salaries, pay-rolls and bills shall be deferred until the general appropriation bill or resolution has been duly enacted; provided, however, that no such appropriation or expenditure during such interim period shall be in excess of the pro rata of the appropriation bill or resolution operative for the preceding fiscal period.

Sec. 3027. Honolulu streets, how named. The board shall have the power and it shall be its duty to name all streets, roads and lanes in the district of Honolulu, and to place the names of such streets, roads and lanes at all intersections; provided that there shall be no duplications of names used and that names desired by the majority of the residents of any street, road or lane shall be adopted in preference to others.

Sec. 3028. Penalty for injuring street signs. Any person tearing down or defacing any name placed at any intersection of any road, lane or street by the board in accordance with the preceding section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten dollars.

HOUSE NUMBERS, HONOLULU

Sec. 3029. Regulated by whom. The board shall have the power and it shall be its duty to regulate the numbering of all the houses in the district of Honolulu. It shall also have the power to regulate the numbering of all houses in any rural district of the City and County of Honolulu, if, in its discretion, the population of such district is deemed sufficiently large to warrant it.

Sec. 3030. Main entrances numbered. All main entrances to buildings from streets, roads, or lanes shall be numbered, and the board shall assign to each house its proper number or numbers and deliver free of charge to the owner or occupant a certificate designating each number and the location.

Sec. 3031. Duty of owner to number. It shall be the duty of every person owning any building fronting on any street, road or lane in the district of Honolulu, or in any rural district of the City and County of Honolulu when required by the board of supervisors, to number the same or cause the same to be numbered correctly within sixty days after the receipt of a designated number or

numbers from the board and to remove or efface any wrong number upon such building, and it shall be the duty of every person owning any building hereafter erected to apply to the board and so number the same within one week after its completion or occupancy.

Sec. 3032. Owner to pay cost. All buildings must be numbered at the expense of the owner.

Sec. 3033. Numbers placed how. All numbers shall be placed in such a manner as to be readily seen from the street, road or lane; shall be of a different color from the background on which they are placed; and shall be at least two inches in height. The numbers shall be placed in a substantial and permanent manner, chalk or other easily effaceable material not being permitted.

Sec. 3034. Penalty for injuring. Any person tearing down, defacing or changing any number put up in accordance with sections 3029-3035 shall be guilty of misdemeanor and subject upon conviction to a fine of not more than ten dollars nor less than one dollar.

Sec. 3035. Penalty for neglect to number, etc. Any owner of a building in the district of Honolulu, or in any rural district of the City and County of Honolulu when required by the board of supervisors, who neglects to number such building as provided in sections 3029-3035, or who shall place, maintain or allow to remain thereon any number other than that directed by the board, after being notified in writing by the board, or who shall number such building without first obtaining the proper number from the board, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than twenty-five dollars, and a further penalty of like sum for every two weeks thereafter that he shall neglect or refuse properly to number such building or to efface an improper number.

#### CITY AND COUNTY OFFICERS

Sec. 3036. Officers. The officers of the city and county shall be a mayor, a board of supervisors, a sheriff, who shall be ex-officio coroner, a city and county clerk, who shall be ex-officio clerk of the board of supervisors, an auditor, a treasurer, a public prosecutor and a city and county attorney; all of whom, except the public prosecutor and the city and county attorney, shall be elected at large by the duly qualified electors of the city and county. The mayor, with the approval of the board of supervisors, shall appoint the public prosecutor and the city and county attorney, respectively for a term of two years; provided, however, that either may be removed by the attorney general, with the approval of the governor, at any time for reasons which appear to be sufficient in their discretion, and no person so removed by the attorney general shall be re-appointed without the approval of the attorney general; and provided, further, that the public prosecutor may be appointed city and county attorney, in which event he shall only be entitled to receive the salary for one office. Both the public prosecutor and the city and county attorney shall become deputies of the attorney general of the Territory, and shall report to the attorney general from time to time as may be required by him.

Sec. 3037. Tenure of office. All elected city and county officers, except as otherwise provided, shall hold office for two years and until their successors are duly elected and qualified.

Sec. 3038. Offices. The city and county officers, with the exception of deputy sheriffs and police officers, shall have their offices at the city and county seat, and the mayor, sheriff, city and county clerk, auditor and city and county attorney, shall keep their respective offices open for business on every legal day from 8:30 o'clock a.m. until 4:00 o'clock p.m. except Saturdays when they may close at twelve meridian.

The office hours of the cashier of the treasury on every legal day shall be from 9:00 o'clock a.m. to 3:30 o'clock p.m., except Saturdays, when the same shall be from 9:00 o'clock a.m. to twelve meridian, and shall be opened for public business on every other day from 9:00 o'clock a.m. until 3:30 o'clock p.m. except Saturdays, when the same shall be opened for public business from 9:00 o'clock a.m. until 11:30 o'clock a.m.

The board of supervisors shall also maintain its offices at the city and county seat.

### QUALIFICATIONS OF OFFICERS.

Sec. 3039. Qualifications. Except as otherwise provided, any person shall be eligible to fill any elective office created by the provisions of this chapter who shall be a citizen of the United States and of the Territory, and who shall have been a duly qualified elector of the Territory and of the city and county for at least two years next prior to his election.

Sec. 3040. Not hold more than one office. No person shall hold more than one office at the same time, except as in this chapter provided.

Sec. 3041. Oath. Before entering upon the duties of his office, each officer elected or appointed shall subscribe to the following oath or affirmation before some person duly qualified to administer oaths:

"I solemnly swear (or affirm) in the presence of Almighty God, that I will faithfully support the Constitution and laws of the United States of America and the laws of the Territory of Hawaii, and conscientiously and impartially discharge my duties as..... of the city and county of Honolulu (or district of..... of the city and county)."

### BONDS

Sec. 3042. Required of each officer and appointed deputy. Before entering upon the duties of his office, each city and county officer and each appointed deputy shall give a bond to the city and county conditioned for the faithful performance of the duties of his office. The bond of each city and county officer shall be in the amount in this chapter provided.

Sec. 3043. Bonds deposited where. All bonds shall be deposited with the treasurer of the city and county, except the bond of the treasurer, which shall be deposited with the mayor.

Sec. 3044. Amount of bonds. The amount of bonds of city and county officers shall be as follows: Mayor, ten thousand dollars; members of the board of supervisors, five thousand dollars each; sheriff, ten thousand dollars; city and county clerk, five thousand dollars; city and county auditor, twenty-five thousand dollars; city and county attorney, five thousand dollars; treasurer, twenty-

five thousand dollars; deputy sheriff, five thousand dollars; public prosecutor, five thousand dollars.

Sec. 3045. Additional bonds. The mayor, with the approval of the board of supervisors, shall have power to require and exact additional bond or security above and beyond that required by section 3044 upon like condition and subject to like determination as to the sufficiency of such additional bond or increased security; provided, however, that no more than double the amount of security hereby required of any officer shall be exacted with the exception of the treasurer.

### SALARIES

Sec. 3046. Salaries of officials. The salaries of the following city and county officers shall be payable semi-monthly out of the city and county treasury at the following rates:

	<u>Per Annum</u>
Mayor.....	\$ 8,250.00
Members of the board of supervisors.....	1,320.00
City & County Clerk.....	6,300.00
Sheriff.....	4,620.00
Auditor.....	6,300.00
City & County Attorney.....	7,500.00
Treasurer.....	6,600.00
Public Prosecutor.....	7,500.00

Sec. 3046 A. Police Department. The annual basic salaries of the officers and members of the Police Department of the City and County of Honolulu shall be as follows: chief of police, \$7,200.00; assistant chief of police, \$4,800.00; captain of detectives, \$4,500.00; captains of police, \$3,600.00 each; lieutenants of detectives, \$3,300.00 each; lieutenants of police, \$3,000.00 each; desk sergeants, \$2,800.00 each; sergeants of police, detectives, police reporters and radio mechanics, \$2,700.00 each; patrolmen-clerks, \$2,500.00 each; patrolmen and policewomen, \$1,900.00, with an annual increase of \$100.00 each in salary for five years, or until the maximum salary of \$2,400.00 is reached.

Sec. 3046 B. Base salary upon appointment. All original appointments of patrolmen and policewomen shall be at the basic salary of \$1,900.00 per year, and the first year of service shall be probationary.

Sec. 3046 C. Salaries on effective date of law; increases. The annual salaries of the following officers and members of the Police Department of the City and County of Honolulu in service on the effective date of this Act shall be as follows: captain of detectives, \$4,000.00; captains of police, \$3,100.00 each; lieutenants of detectives, \$2,800.00 each; lieutenants of police, \$2,500.00 each; desk sergeants, \$2,300.00 each; sergeants of police, detectives, police reporters and radio mechanics, \$2,200.00 each; patrolmen-clerks, \$2,000.00 each. All officers and members mentioned in Section 3046 C herein shall receive an increase in salary of \$100.00 each for each year of service for five years until the basic salary is reached, and any appointments and/or promotions to the above grades shall be at the rates of compensation paid the incumbent officers and members.

Sec. 3046 D. Fire Department. The annual basic salaries of the following officers and members of the Fire Department of the City and County of Honolulu shall be as follows: chief engineer, \$6,600.00; first assistant chief engineer, \$4,800.00; second assistant chief engineer, \$4,000.00; master mechanic, \$3,600.00; captains, \$3,000.00 each; engineer and assistant mechanic, \$2,800.00; lieutenants, \$2,700.00 each; engineers, \$2,600.00 each; drivers, hosemen, clerks and operators, \$1,900.00, with an annual increase of \$100.00 in salary for five years, or until the maximum salary of \$2,400.00 is reached.

Sec. 3046 E. Base salary upon appointment. All original appointments of drivers, hosemen, clerks, and operators shall be made at the basic salary of \$1,900.00 per year, and the first half year of service shall be probationary.

Sec. 3046 F. Salaries on effective date of law; increases. The annual salaries of the following officers in service on the effective date of this Act shall be fixed as follows: captains, \$2,500.00 each; lieutenants, \$2,200.00 each; engineers, \$2,100.00 each; said officers to receive an annual increase of \$100.00 in salary until the basic salary referred to in Section 3046 D. of this Act is reached; provided, however, that any appointments and/or promotions to the above grades shall be at the rates paid the incumbent officers.

Sec. 3046 G. Conditions on increase. No annual increase in salary shall be paid to any member of the police department unless in the opinion of the Police Commission such member has rendered satisfactory service and no annual increase in the salary of any member of the fire department shall be made unless such member shall, in the judgment of the Chief Engineer of the fire department, have rendered satisfactory service.

Sec. 3046 H. Repeal of Conflicting Provisions. All provisions of law or rules and regulations inconsistent with the provisions of this Act are superseded by the provisions hereof to the extent of such inconsistency.

Sec. 3046 I. Appropriations. The Board of Supervisors is hereby authorized and directed to make the necessary appropriations to meet the salaries as fixed herein for the members of the fire department and to increase the lump sum directed by law to be appropriated for use of the police department by the amount the salaries of the members of said department are increased by the terms hereof over the salaries paid for like positions on January 1, 1937. Notwithstanding any provision of the law to the contrary the Board of Supervisors of the City and County of Honolulu is hereby authorized and empowered to appropriate up to 25% of the cost of the Police Department of said City and County from that fund known as the road fund.

Sec. 3046 J. Effective Date. This Act shall take effect upon the date of its approval; provided, however, that the salary schedules set forth herein or herein authorized shall take effect July 1, 1937, and provided, further, that where annual increases are provided for each year of service the period from July 1, 1937 to December 31, 1937 shall be considered as the first year of service.

#### \* ELECTIONS

Sec. 3047. Proclamation, contents of and posting. The mayor shall issue his proclamation not less than twenty days previous to the day in each year

on which the city and county election is to be held under this chapter, calling upon the electors of the city and county to meet for the purpose of electing such officers as are provided for in this chapter, reciting in such proclamation the different officers to be elected at such election. The proclamation shall be published by the posting of the same in not less than three public and frequented places in each precinct.

Sec. 3048. General laws applicable. The general laws and rules governing the election of senators and representatives of the Territory shall apply in the election of city and county officers wherever applicable except as herein provided.

Sec. 3049. Precincts and polling places. The precincts established by the laws of the Territory for the election of senators and representatives and the polling places established from time to time, by the board of supervisors, which polling places shall be set forth in the proclamation provided for in Section 3047 whenever the same is issued, shall constitute the precincts and polling places for the election of city and county officers.

Sec. 3050. Returns. The returns of election of city and county officers, together with the ballots, lists and records concerning the election of city and county officers, and copies of the statements concerning the results of such election, shall be transmitted to the city and county clerk and shall be preserved by him according to law.

Sec. 3051. Tie vote. If it shall appear by the returns made that there has been a failure of election of any city and county officer by reason of a tie vote between two or more candidates, the tie shall forthwith be decided by lot under the supervision of the clerk of the city and county; and all candidates interested shall be notified by the clerk of the time and place of the drawing of the lot and each candidate shall be given an opportunity to be present, together with two witnesses to be selected by him.

Sec. 3052. Ballot boxes. Ballot boxes required for the election of city and county officers shall be furnished by the city and county clerk. Such boxes shall be marked in plain letters, "City and County Officers".

Sec. 3053. Ballots. The city and county clerk shall prepare the ballots to be used at elections for the city and county officers, and shall furnish the same to the several boards of inspectors at least five days prior to the election. The ballots at the general election shall be of green paper and their general form, arrangement, number and style of printing shall be as prescribed by law for ballots for senators and representatives. The ballots for supervisors at the primary election shall be of pink paper and the ballots for the other officers shall be of green paper and their general form, arrangement, number and style of printing shall be as prescribed by law for ballots for senators and representatives.

Sec. 3054. Tabulation; certificate of election. Upon receiving returns of election, the city and county clerk shall immediately tabulate the same and ascertain the result of the election; such tabulation shall be made in the presence of any candidate or his agent who desires to be present. The persons receiving the highest number of votes shall be declared elected, and the city and county clerk shall immediately deliver to the persons elected certificates of election.

Sec. 3055. Date of general election; expenses. The general election of elective officers of the city and county of Honolulu shall be held on the first Tuesday after the first Monday in the month of November in every even numbered year; and the officers elected shall take office at twelve o'clock meridian on the second day of the month of January following their election, unless such day be a Sunday, in which case they shall take office on the third day of such month, and shall hold office until their successors are duly elected and qualified.

The expense of such election shall be paid by the city and county of Honolulu.

### CONTESTS

Sec. 3056. Validity of ballot. All questions as to the validity of any ballot cast at any election held under this chapter shall be decided immediately and the opinion of the majority of the board of inspectors of election at each polling precinct shall be final and binding, subject to revision by the supreme court as hereinafter provided.

Sec. 3057. Petition to contest; summons. Any candidate directly interested, or any thirty duly qualified voters of any election district may file a petition in the supreme court setting forth any cause or causes why the decision of any board of inspectors should be reversed, corrected or changed. The petition shall be filed in the office of the clerk of the supreme court within thirty days following the election proposed to be contested and shall be accompanied by a deposit of twenty-five dollars for costs of court. The clerk shall thereupon issue to the respondents named in such petition a summons to appear before the supreme court within ten days after service thereof.

Sec. 3058. Hearing; judgment. The petition shall be heard by the court in term time or vacation. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. Such judgment may invalidate the election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the inspectors of election; or decide that a certain candidate, or certain candidates, received a majority or plurality of the votes cast and were elected. If such judgment should be that the election was invalid, a certified copy thereof shall be filed with the mayor, and he shall duly call a new election to be held within sixty days after filing such judgment; and if the court shall decide which candidate or candidates have been elected a copy of such judgment shall be served on the city and county clerk, who shall sign and deliver to such candidate, or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the office.

Sec. 3059. Powers of court; costs. The court shall have power to compel the attendance of witnesses, to punish contempts and to do whatsoever else may be necessary fully to determine the proceedings; and to enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be the same as in trials in the circuit courts at chambers.

## REMOVAL OF OFFICERS

Sec. 3060. Impeachment. Any city and county officer may be removed for malfeasance, misfeasance, nonfeasance or maladministration in office. The board of supervisors shall constitute a board of impeachment for the trial of any elected officer of the city and county (except members of the board of supervisors); who may be charged with malfeasance, misfeasance, nonfeasance or maladministration in office by not less than one hundred legal voters within the city and county. Such officer shall be informed of the charge made against him and shall be given an opportunity to defend himself against the same. The board of impeachment shall have power to hear and determine the charge; and if the same be sustained, to remove from office the officer so charged; and to fill the vacancy so occurring by the appointment of some qualified person to said office for the unexpired term thereof; provided, however, that in case of the removal of a member of the board of supervisors the vacancy so caused shall be filled by appointment by the mayor for the unexpired term of such member. The decision of the board of supervisors may be reviewed by the supreme court, upon a writ of certiorari; and provided, further, that members of the board of supervisors shall be tried for any of the causes specified in this section, and in manner similar to that provided for the trial of the city and county officers, before the supreme court. Jurisdiction is conferred upon the supreme court to hear and try cases arising under the provisions of this chapter, with power, in case such charges are sustained, to remove any of such officers from office.

Sec. 3061. Vacancies. Any vacancy occurring in any city and county office shall be filled by appointment by the mayor with the approval of the board of supervisors, unless such vacancy is in the office of mayor, and, in such case, such vacancy shall be filled by appointment by the board of supervisors for the unexpired term of such office. If a mayor be so appointed by the board of supervisors from their own number the vacancy in the board so caused shall be filled by appointment by such new mayor.

## EXECUTIVE DEPARTMENT

### Mayor

Sec. 3062. Qualifications; assistants. The chief executive officer of the city and county shall be designated the mayor. He shall be an elector of the city and county at the time of his election, and must have been such for at least three years next preceding such election. He may appoint and remove at pleasure a secretary with a salary of not less than two thousand four hundred dollars per annum and such other assistants to his office and at such salaries as may be allowed by the board.

Sec. 3063. Powers and duties. The mayor shall vigilantly observe the official conduct of all public officers and the manner in which they execute their duties and fulfill their obligations. The books, records and official papers of all departments, officers and persons in the employ of the city and county shall at all times be open to his inspection and examination. He shall take special care that the books and records of all departments, boards, officers and persons are kept in legal and proper form. When any official defalcation or wilful neglect of duty or official misconduct shall come to his knowledge, he shall suspend the delinquent officer or person from office pending an official investigation. The mayor shall from time to time recommend to the proper officers

of the different departments such measures as he may deem beneficial to public interest. He shall see that the laws of the Territory and ordinances of the city and county are observed and enforced. He shall have a general supervision over all the departments and public institutions of the city and county, and see that they are honestly, economically and lawfully conducted. He shall take all proper measures for the preservation of public order and the suppression of all riots and tumults, for which purpose he may use and command the police force. If such police force is insufficient, he shall call upon the governor for military aid in the manner provided by law, so that such public order may be restored or riots or tumults may be promptly and effectually suppressed.

Sec. 3064. Further duties. The mayor shall see that all contracts and agreements with the city and county are faithfully kept and fully performed. It shall be the duty of every officer and person in the employ or service of the city and county, when it shall come to his knowledge that any contract or agreement with the city and county, or with any officer or department thereof, or relating to the business of any office, has been or is about to be violated by the other contracting party, forthwith to report to the mayor all facts and information within his possession concerning such matter. A wilful failure to do so shall be cause for the removal of such officer or employee. The mayor shall give a certificate on demand to any person reporting such facts and information that he has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty.

Sec. 3065. Power to appoint. It shall be the duty of the mayor, on or immediately following the day from which his term of office begins, to appoint, with the approval of the board of supervisors, all appointive heads of the city and county, created or recognized by law or ordinances and all other officials whose appointments are not otherwise provided for. The term of office of officers so appointed shall not extend over the term of office of such appointive and approval power. The mayor may, with the approval of the board, remove from office any of such appointed officers. When a vacancy occurs in any elective office, or in case of any department head or other official as aforesaid and provision is not otherwise made by law for filling the same, the mayor, with such approval, shall appoint a suitable person to fill such vacancy, who shall hold office for the unexpired term unless otherwise removed.

Sec. 3066. President of board. The mayor shall be president of the board of supervisors or board of impeachment by virtue of his office. He may call extra sessions of the board, and shall communicate to them in writing the objects for which they have been convened and their acts at such sessions shall be confined to such objects.

Sec. 3067. Acting mayor. When and so long as the mayor is temporarily unable to perform his duties, a member of the board shall be chosen president pro tempore, who shall act as mayor.

#### AUDITOR

Sec. 3068. Warrants, issuance of. The auditor shall issue warrants on the city and county treasurer in favor of persons entitled thereto in payment of claims and demands chargeable against the city and county which have been legally examined, allowed and ordered paid by the board of supervisors. The auditor shall

also issue warrants on the treasurer for all debts and demands against the city and county when the amounts are fixed by law, or authorized by law to be allowed by some person or tribunal other than the board of supervisors.

Sec. 3069. Liability specified thereon. All warrants shall distinctly specify the liability for which they are drawn and when the same accrued.

Sec. 3070. Examination and settlement of accounts of debtors to city and county. The auditor shall examine and settle the accounts of all persons or officers indebted to the city and county or holding moneys payable into the city and county treasury, certifying in duplicate the amount to the treasurer and, upon the return to him of one of such certificates, with the treasurer's receiving stamp properly enfacéd thereon, give to such persons a receipt and discharge, and charge the same to the treasurer with the amount so received by him.

Sec. 3071. Accounts of auditor with treasurer. The auditor shall keep accounts current with the treasurer, and when any person deposits with the auditor a properly stamped voucher, as herein provided, for any money paid into the treasury, the auditor shall file such voucher and charge the treasurer with the amount thereof.

Sec. 3072. Warrants numbered etc. All warrants issued by the auditor during each year, commencing with the first Monday after January 1, shall be numbered consecutively; the number, date and amount of each, the name of the person to whom payable, and the purpose for which drawn stated thereon; and they shall, at the time they are issued, be registered by him.

Sec. 3073. Examination of treasurer's books. The auditor shall, between the first and tenth day of each month, examine the books of the treasurer, and he or his deputy shall examine, once in each month, the books of any other department, board or officer of the city and county, and see that the same have been correctly kept.

Sec. 3074. Count of money in treasury. The mayor, the city and county attorney and auditor shall jointly, at least once in each three months, and at such other times as they may deem proper, count the money in the treasury and make and verify in duplicate statements showing: 1. The amount of money that ought to be in the treasury; 2. the amount and kind of money actually therein.

Sec. 3075. Statements of count to be filed. They shall file one of such statements in the office of the clerk, and the auditor shall post and maintain the other in his office for at least one month thereafter.

Sec. 3076. Quarterly statements to supervisors. The auditor and the treasurer of the city and county must, on the first Monday in February, May, August and November, in each year, and at such other times as the mayor or the board may require, make a joint statement to the mayor and board showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the treasury; the objects to which the same were applied, and the amount allotted to each; the total amount of warrants drawn and paid, and on and out of what funds; the total amount of warrants drawn and unpaid, the accounts or claims audited or allowed and unpaid, and the fund out of which they are to be paid; and, generally, make a full and specific showing of the financial condition of the city and county.

Sec. 3077. Auditor's deputies and clerks. The auditor may appoint and remove at pleasure such deputies, clerks and other assistants, with such qualifications, and at such salaries as may be allowed by the board.

TREASURER

Sec. 3078. General duties. The city and county treasurer shall:

1. Receive all moneys belonging to the city and county and all other moneys by law directed to be paid to him, safely keep the same and apply and pay them out, rendering account therefor as required by law and perform such duties as are required by law;
2. File and keep one of the certificates of the auditor delivered to him when moneys are paid into the treasury;
3. Keep an account of the receipt and expenditure of all such moneys in books provided for that purpose in which shall be entered the amount, the time when, from or to whom and on what account all moneys were allowed and disbursements made;
4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations shall be exhibited in separate accounts and the whole receipts and expenditures shown in one general cash account;
5. Enter no moneys received for the current year on his account with the city and county for the previous fiscal year until after his annual settlement for the previous year has been made with the city and county auditor;
6. Disburse city and county moneys only on warrants issued by the auditor;
7. Disburse other moneys in the treasury on such warrants only as shall be based on orders or appropriations of the board or upon an order of court or as otherwise provided for by law.

Sec. 3079. Receive's money on auditor's certificate. He shall receive no money into the treasury unless accompanied by certificates of the auditor as provided in section 3070.

Sec. 3080. Charged with money paid. When any money is paid to the treasurer upon the certificates of the auditor, as provided by the preceding section, the treasurer shall return one of the certificates to the auditor with his receiving stamp enfac'd thereon. The auditor shall forthwith charge the treasurer with such sum and give the person making the payment a receipt therefor.

Sec. 3081. Pay warrants. When a warrant or warrant note is presented to the treasurer for payment, if there is money in the treasury for that purpose, he shall pay the same and write or stamp on the face thereof "paid," the date of payment, and sign his name thereto. No warrant or warrant note upon the treasury shall be paid unless presented to the treasurer for payment before the close of the biennial period next after the biennial period in which it shall have been issued. All warrants or warrant notes not so presented within such

time shall be deemed to have been paid, and any moneys held at the expiration of such time in a special fund or account for the payment of such warrants or warrant notes shall thereupon be transferred to general funds. All warrants or warrant notes paid by the treasurer shall be filed by him with the documents of his office; before filing such warrants or warrant notes, the treasurer shall, from time to time, officially advise the auditor of their payment; such notice shall contain the serial number of the warrant or warrant note, the name of the payee, amount and date of payment. The treasurer shall pay no warrants or warrant notes not properly endorsed.

Sec. 3082. Issues treasurer's warrant notes, when. When any warrants are presented to the treasurer for payment and the same are not paid for want of funds, the treasurer shall issue in lieu thereof a treasurer's warrant note, which shall be countersigned by the auditor, equal in amount to the face value of the warrant or warrants so presented for payment, such note to be substantially in the following form:

Countersigned: ..... Auditor	No.....	Treasurer's warrant Note.
		Honolulu, T. H. .... 19.....
	On demand after date, the Treasurer of the City and County of Honolulu will pay to the order of..... .....Dollars (\$.....) with interest at .....% per annum, from date of issue to date of redemption.	
	On redemption this warrant) note will be charged to ) ..... .....fund) Treasurer	

The mayor and treasurer of the city and county shall for each calendar year, determine the rate of interest that treasurer's warrant notes, issued during such calendar year shall bear, which rate of interest shall not be in excess of 5% per annum.

The treasurer's warrant notes may be issued for the combined face value of any number of warrants or treasurer's warrant notes previously issued against the same fund. Except for those notes issued to redeem treasurer's warrant notes previously issued, no warrant note shall be issued except in payment of warrants presented for payment as in this section provided. The treasurer shall cancel every warrant or warrant note presented as hereinbefore mentioned.

All treasurer's warrant notes shall be issued upon the credit of the city and county, and the interest thereof shall be exempt from taxation.

Sec. 3083. Notice of payment. When there are sufficient moneys in the treasury to pay warrant notes, the treasurer shall give notice for one week in some newspaper published in the city and county, stating therein that he is ready to pay such warrant notes. Five days after the first publication the warrant notes shall cease to draw interest.

Sec. 3084. Warrant notes advertised by number. In advertising warrant notes under the provisions of the preceding section in any newspaper, the treasurer shall give notice that the warrant notes the numbers of which are stated in the

advertisement are payable.

Sec. 3085. Warrant notes not presented. If such notes shall not be presented for payment within sixty days from the time the notice hereinabove provided for is given, the funds set aside for the payment of the same shall by the treasurer be applied to the payment of unpaid notes next in order. Such notes as are not presented within the sixty days shall be included in the next advertisement for notice of payment.

Sec. 3086. Interest, designated on warrant note. When the treasurer pays any note upon which interest is due, he shall designate on the warrant note the amount of interest paid thereon, and enter on his account the amount of such interest distinct from the principal.

Sec. 3087. Settlement of accounts with auditor. The treasurer shall settle his account relating to the collection, care and disbursement of public money with the auditor on the first Monday of each month. For the purpose of such settlement, he shall make a statement under oath, of the amount of money received during the month prior to the period of such settlement, the sources whence the same was derived, the amount of payments or disbursements and to whom, with the amount remaining on hand. He shall in such settlement deposit all warrants redeemed by him and take the auditor's receipt therefor. He shall also make a full settlement of all accounts with the auditor annually on the first Monday in January, in the presence of the supervisors.

Sec. 3088. Report to supervisors. At the first regular meeting of the month, the treasurer shall make a detailed report to the board of all moneys received by him and the disbursements thereof for the previous calendar month, and all other proceedings in his office.

Sec. 3089. Failure to settle or report, penalty. If the treasurer willfully neglects or refuses to settle or report as required in sections 3087 and 3088, he shall forfeit and pay to the city and county the sum of one hundred dollars for every such neglect or refusal, and the mayor shall cause to be instituted suits for the recovery thereof, as provided by law.

Sec. 3090. Possession of moneys. The treasurer shall keep all moneys received by him belonging to the Territory, or to any other county, in his own possession until disbursed according to law. He shall not place the same in the possession of any person for any purpose; nor loan or in any manner use or permit any person to use the same except as provided by law; but nothing in this section shall preclude him, with the approval of the mayor, from making special deposits for the safe keeping of public moneys; but he shall be liable therefor on his official bond.

Sec. 3091. Deposits credited to general fund. All moneys received by the city and county as government realizations, except moneys designated by law to be placed in special funds, shall be deposited by the treasurer to the credit of the general fund.

Sec. 3092. Treasurer's deputies, clerks. The treasurer may appoint and remove at pleasure such deputies, clerks and other assistants, with such qualifications, and at such salaries as may be allowed by the board.

LEGAL DEPARTMENT

City and County Attorney

Sec. 3093. General duties. The city and county attorney, or his deputy or deputies, shall:

1. Attend all courts in and for the city and county and conduct on behalf of the people all civil cases in which the city and county is interested.
2. Appear in every civil case in which the city and county is interested where there shall be a change of venue and prosecute or defend the same in any county to which the same shall be changed or removed; the expenses of such proceedings shall be paid by the city and county.
3. Defend all suits brought against the city and county wherever brought, prosecute all recognizances forfeited in the courts of record, assist the tax collector of his taxation division in the collection of delinquent taxes, and prosecute all action for the recovery of debts, fines, penalties, forfeitures, and other claims accruing to the Territory or the city and county.
4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the city and county treasurer.
5. On the first Monday of each month, file with the auditor an account verified by his oath of all moneys received by him in his official capacity during the preceding month and, upon receipt of the auditor's certificate therefor, pay such moneys over to the city and county treasurer.

Sec. 3094. Liability on bond. If the city and county attorney should refuse or neglect to account for and pay over all money received by him by virtue of his office, he shall be liable for such refusal or neglect upon his official bond, and the treasurer shall bring an action against him for the recovery thereof in the name of the city and county and recover in such action, in addition to the amount so received, fifty per centum thereon by way damages. No order of the board of supervisors shall be necessary to bring such action. The treasurer's reasonable expenses, including an attorney's fee, shall be a city and county charge.

Sec. 3095. Adviser and defender. He shall be the legal adviser and give when required and without fee his opinion in writing to the city and county officers on matters relating to the duties of their respective offices, and when required by the board or any member thereof draft any ordinances for the city and county. He shall attend meetings of the board when required, and attend and oppose all claims and accounts against the city and county when he deems them unjust and illegal. He shall not represent any party having a claim, account or demand for allowance against the city and county.

In case any action of mandamus, injunction, or any civil action for damages in connection with the performance of or failure to perform any official act by any officer of the city and county shall be instituted by anyone not an officer of the Territory or any subdivision thereof, against any such officer while in office, then upon the request of such officer, and in case the board shall so require, such officer shall be defended by the city and county attorney; provided, however, that the city and county attorney shall not be required to defend any

officer in any matter or case out of which criminal proceedings against the officer so sued are likely to arise.

Sec. 3096. Attorney's deputies, clerks, etc. The city and county attorney may appoint and remove at pleasure such deputies or other legal assistants, such clerks, stenographers, interpreters or other assistants, with such qualifications, and at such salaries as may be allowed by the board.

Sec. 3097. Special counsel. Nothing in this chapter contained shall preclude the mayor or board from retaining or engaging special counsel when, in their opinion, such action may seem to be desirable or required; nor prevent the attorney general of the Territory or any of his deputies from appearing and representing the Territory in any case in which the rights or interests of the Territory are involved.

### Public Prosecutor

Sec. 3098. Duties. The public prosecutor, either in person or by an assistant, shall:

1. Attend all courts in the city and county and under the control and direction of the attorney general conduct on behalf of the people all prosecutions therein for offenses against the laws of the Territory and the ordinances of the city and county.
2. Appear in every criminal case where there shall be a change of venue from the courts in the city and county and prosecute the same in any county in which the same shall be changed or removed. The expense of such proceedings shall be paid by the city and county.
3. Institute proceedings or direct the chief of police to do so before the magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose take charge of criminal cases before the district magistrates, either in person or by an assistant, or by the chief of police or any of his assistants, or by such other prosecuting officer as he shall appoint; draw all indictments and attend before and give advice to the grand jury whenever cases are presented to them for their consideration; provided, however, that nothing herein contained shall prevent the institution or conduct of proceedings by private counsel before magistrates or courts of record under the direction of the public prosecutor.
4. Deliver receipts for money or property received in his official capacity and file duplicates thereof with the city and county treasurer.
5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month and upon receipt of the auditor's certificate therefor pay such moneys over to the treasurer.

Sec. 3099. Assistant public prosecutors, clerks, etc.; offices. The public prosecutor of the city and county may appoint and remove at pleasure such assistant public prosecutors, clerks, stenographers, investigators, interpreters and other assistants as he shall deem necessary to properly transact the business

of his office. Said assistants and employees shall receive such salaries as shall be fixed and allowed by the board of supervisors.

Any investigator so appointed by the public prosecutor shall have all the powers and privileges of a police officer of the city and county of Honolulu.

At the request of the public prosecutor one or more officers of the police department shall be detailed by the chief of police of the city and county for the purpose of doing detective work necessary in preparing and presenting the litigation of the office, who shall continue to serve on such detail during the pleasure of the public prosecutor, and as long as the necessity of such detail exists.

The board shall make available to the public prosecutor and his staff sufficient and proper accommodations and equipment for their use.

Sec. 3100. Fee for service; not allowed when. Neither the public prosecutor nor his assistants shall receive any fee or reward from or on behalf of any person for services rendered or to be rendered in any prosecution or business to which it shall be their official duty to attend.

Sec. 3101. Accounts to board of supervisors. The public prosecutor shall make an annual report to the board of the transactions and business of his department, showing the revenues and expenditures of his office and a summary of all the business transacted by his office for the preceding year.

Sec. 3102. Exclusive criminal jurisdiction. In all provisions of law dealing with criminal law and criminal procedure and other matters which by this subtitle are placed under the jurisdiction of the public prosecutor, the words "city and county attorney", or equivalent expressions wherever used therein, shall be taken to mean and refer exclusively to the public prosecutor insofar as they so deal with criminal law and procedure.

#### CITY AND COUNTY CLERK

Sec. 3103. General duties. The city and county clerk shall:

1. Take charge of, safely keep and dispose of, according to law, all books, papers and records, which may properly be filed in his office, and keep in separate files, arranged in numerical order, all ordinances and resolutions, or exact copies thereof, adopted by the board;
2. Be ex-officio clerk of the board, and, as such, perform the following duties:
  - (a) Record all the proceedings of the board;
  - (b) Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and allowance of accounts against the city and county;
  - (c) Record the vote of each member on any question upon which there is a division or at the request of any member present;
  - (d) Immediately after adjournment of each meeting of the board, certify all demands allowed and orders made for the payment of money, giving the amount and date of each demand or order,

and date of the allowance thereof, which demands or orders shall be countersigned by the mayor, and thereafter the clerk shall deliver the same to the auditor and also deliver a copy thereof to the treasurer;

- (e) File and preserve the report of the treasurer of the receipts and disbursements of the city and county;
- (f) Preserve and file a memorandum of all accounts acted upon by the board;
- (g) Authenticate with his signature and seal of the city and county, the proceedings of the board whenever the same shall be ordered published;
- (h) Administer oaths and affirmations, when requested to do so, without charge in all matters pertaining to the affairs of his office, and shall perform such services as may be prescribed by the board;
- (i) Perform all other duties required by law, or any rule or order of the board;

3. Accept, subject to the approval of the board, a seal of office, upon which shall always appear the name of the city and county, which shall be the seal of the city and county, and shall be used to authenticate all official papers and instruments requiring execution or certification by the clerk, in the exercise of his office. A copy of the impress thereof, certified to be genuine, and also a copy of such seal of the city and county when altered or changed by the board, shall be filed in the office of the secretary of the Territory;

4. Have the custody of the seal, and of all leases, grants and other documents, records and papers of the city and county. His signature shall be necessary to all leases, grants and conveyances of the city and county.

Sec. 3104. Clerk's deputies, clerks. The clerk may appoint and remove at pleasure such deputies, clerks, stenographers and other assistants, with such qualifications, and at such salaries as may be allowed by the board.

#### DEPARTMENT OF PUBLIC WORKS

Sec. 3104 A. Department of Public Works created; powers, duties and functions. There is created a Department of Public Works of the City and County of Honolulu. The department shall have charge of, and shall administer and superintend the performance of, all City and County matters in the City and County, of, or relating to, engineering, public construction, road, street, and bridge construction and maintenance, public improvements, garbage disposal, street and highway illumination, traffic control, sewer construction and maintenance and all other public works, except the repair, operation, maintenance and construction of public buildings, parks, and public water supplies for the City of Honolulu.

Sec. 3104 B. Chief Engineer; powers and duties. The department shall be in charge of a head administrative officer who shall be a registered professional engineer of recognized standing and ability, who shall be known as the chief engineer, Department of Public Works, City and County of Honolulu. He shall be appointed and be removable by the Mayor, with the consent of the board of supervisors, and shall receive a salary of not less than seven thousand two hundred dollars per annum from the City and County of Honolulu. He shall be vested with, and have,

enjoy, perform and be subject to, all the powers, functions, duties and liabilities conferred or imposed upon the department under the foregoing section, and such further powers, duties, functions and liabilities as may be prescribed from time to time by the board of supervisors.

Sec. 3104 C. Deputies, assistants and employees. The chief engineer shall appoint or engage, and may remove, such deputies, assistants and employees as the functions of the department shall require, at such compensation as the board may authorize, and such deputies, assistants and employees shall discharge any of the duties pertaining to the department as the chief engineer may assign to them; the chief engineer, with the approval of the board, may also appoint, in writing, any deputy, assistant or employee in his department, or, in case no competent person is so available, any competent person at such compensation as the board may authorize, to serve as acting chief engineer during his temporary illness, incapacity, or absence from the city and county for whose acts the chief engineer shall be responsible, and such appointee shall, during such temporary illness, incapacity or absence of the chief engineer, have and exercise all the powers, duties and functions of the chief engineer, whether prescribed by statute or ordinance, subject to the direction and control of the engineer; provided, however, that any deputy, assistant or employee in the department so appointed as acting chief engineer shall serve as such without additional compensation.

Nothing in this bill shall be construed to affect the tenure of office of the present city and county engineer, who shall serve out his present term and assume the duties of chief engineer of the city and county, unless sooner removed in accordance with present ordinances of the city and county of Honolulu.

#### SHERIFF

Sec. 3105. Specific duties. The sheriff shall:

1. Attend all circuit courts held within the city and county and obey all lawful orders and directions of all courts held within the city and county;
2. Take charge of and keep the Honolulu jail and all prisoners committed thereto;
3. Serve all processes and notices, except in criminal proceedings, in the manner prescribed by law and indorse thereon the year, month, day, hour and minute of reception, and issue to the person delivering the same on payment of fees therefor, a certificate showing the names of the parties, title of paper and time when received;
4. Certify, under his hand, upon every process or notice, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay.\*

Sec. 3106. Act as coroner. The sheriff and his deputies shall be ex-officio city and county coroners, and as such, shall, within the city and county districts, have all the powers and perform all the duties of coroners as provided by law.

Sec. 3107. Mail process. When a process or notice is returnable to any county he may enclose such process or notice in an envelop addressed to the office from which the same emanated and deposit it in the post office prepaying postage.

Sec. 3108. Liability executing process. No direction or authority by a party or his attorneys to a sheriff, in respect to the execution of process or return thereof, or to any act or omission relating thereto, shall be available to discharge or excuse the sheriff from liability for neglect or misconduct, unless in writing, signed by the attorney of the party, or by the party, if he has no attorney.

Sec. 3109. Serving process against sheriff. When the sheriff is a party to an action or proceeding, the process and orders therein, which it would otherwise be the duty of the sheriff to execute, shall be executed by a deputy sheriff; provided, when an action is begun against the sheriff, all process and orders may be served by any person, a citizen of the United States; over the age of twenty-one years, appointed by the court or judge for that purpose.

#### DEPUTY SHERIFF

Sec. 3110. Deputy sheriffs, and other employees. The sheriff may appoint and remove at pleasure such deputies, not to exceed fifteen (15); and employees, with or without pay and with such qualifications, as may be required to assist him in carrying out the functions and duties of his office. Such deputies, and employees appointed to serve with pay shall serve at such salaries as may be allowed by the board.

#### GENERAL PROVISIONS

Sec. 3111. Jurisdiction district magistrates. Jurisdiction is conferred upon the district magistrates within their respective districts in the city and county, to try all cases arising from the violation of any ordinances in force in the city and county and to impose the penalties in such ordinances prescribed for such offenses in like manner as their original jurisdiction is exercised under the general law.

Sec. 3112. Notice of injuries. Before the city and county shall be liable for damages to any person for injuries to person or property received upon any of the streets, avenues, alleys, side-walks or other public places of the city and county, or on account of any negligence of any official or employee of such city and county, the person so injured, or the owner or person entitled to the possession, occupation or use of the property so injured, or someone in his behalf, shall, within six months after receiving such injuries, give the mayor notice in writing of such injuries, and the specific damages resulting, stating fully in such notice, when, where and how the injuries occurred, the extent thereof and the amount claimed therefor.

Sec. 3113. Injured police and firemen. Whenever any employee of the police department or fire department of the city and county receives personal injury by accident arising out of and in performance of his duty, and without negligence on his part, the board of supervisors shall provide and furnish such medical, surgical and hospital services and supplies as the nature of the injury may require; provided, however, that any employee may decline such care or treatment and provide other care or treatment for himself at his own expense, and such injured employee shall further be continued on the payroll of his respective department at his full regular monthly salary during the first four months of his disability and thereafter during the period of his total disability from work at sixty per centum of his regular monthly salary. Any benefits received under sections 3113-3114 shall be in lieu of any benefits which might otherwise be allowable under chapter 245, and

in case the beneficiary is awarded any benefits under chapter 259, part 3, the amount of any benefits payable from time to time to such beneficiary under sections 3113-3114 shall be deducted from, or applied on account of, any amount payable during the same period to such beneficiary under chapter 259, part 3.

Sec. 3114. City and county physician. The medical, surgical and hospital care of injured employees of the city and county required under the foregoing section, shall be in the control and management of the city and county physician, and all charges for such medical, surgical and hospital services and supplies shall be incurred by or under the direction of the city and county physician.

Sec. 3115. Removal of deputies and others. Any city and county officer may remove from office any deputy, assistant or clerk appointed by him. And any officer who shall have been appointed by the mayor with the approval of the board of supervisors, may be removed by the same authority.

Sec. 3116. Officer includes deputies. Whenever the official name of any principal officer is used in this chapter, it includes his deputies. Every assistant, deputy or other subordinate of any board, department or officer, shall discharge any of the duties pertaining to such board, department or office as his chief may assign to him.

Sec. 3117. Meaning of department, board, officer. Every department, board and officer, wherever one of them is mentioned in this chapter, means a department, board or officer, as the case may be, of the city and county of Honolulu.

Sec. 3118. Qualifications of deputies, etc. In addition to the requirements of section 86, all deputies, clerks, assistants and other employees of the city and county must, during their respective term of office or employment, actually reside in the city and county, and must have so resided for one year next preceding their appointment.

Sec. 3119. Extra help and supplies prohibited. No department, board or officer shall, under any circumstances, employ more subordinates than are authorized or provided for by the board of supervisors, or buy supplies beyond the sum furnished therefor by the board, except in case of emergency approved by the mayor and within the limitations of this chapter.

Sec. 3120. Additional help. When any officer, board or department shall require additional deputies, clerks, or employees, application shall be made to the mayor therefor, and upon such application the mayor shall make investigation as to the necessity for such additional assistance; and if he finds the same necessary he may recommend to the board of supervisors to authorize the appointment of such additional deputies, clerks or employees; and thereupon the board of supervisors, by an affirmative vote of not less than five members, may authorize such officer, board or department to make such appointments, and provide for the compensation of such appointees; provided, however, that nothing in this section shall be construed to prevent the head of any department recognized by the board of supervisors from using any appropriations provided by the board to be available for day laborers, informers, appraisers, or other temporary help as may be consistent with the purposes of such appropriations and the duties of such department head.

Sec. 3121. Forfeiture of office. Any officer of the city and county

who shall, while in office, accept any donation or gratuity in money, or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for any position as employee or subordinate under him, shall forfeit his office, and be forever debarred and disqualified from holding any position in the service of the city and county.

Sec. 3122. Annual report to mayor. Every department, board and commission provided for in this chapter, except the supervisors, shall render to the mayor within one month after the end of each fiscal year a full report of all the operations of such department or board or commission for such year.

Sec. 3123. Liability for unauthorized demands. Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordinance or this chapter, shall be liable to the city and county individually and on his official bond for the amount of the demands so illegally approved, allowed or paid.

Sec. 3124. Records open to inspection; copies. All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Certified copies or extracts from such books and records shall be given by the officer having the same in custody to any citizen demanding the same, and paying or tendering twenty cents a folio of one hundred words for such copies or extracts; but the records of the police department shall not be subject to such inspection except permission be given by the chief of police.

Sec. 3125. Appointments in writing. All appointments of officers, deputies and clerks must be made in writing and in duplicate, authenticated by the person, board or officer making the same. One of such duplicates must be filed with the clerk and the other with the auditor. When the appointment of any such officer is revoked the officer whose appointment is so revoked shall give notice, in writing, of such revocation to the clerk and the auditor.

Sec. 3126. All moneys paid into treasury. The salaries provided in this chapter shall be in full compensation for all services rendered, and every officer shall pay all moneys belonging to the city and county coming into his hands as such officer, no matter from what source derived or received, into the treasury of the city and county within thirty days after receipt of the same.

## CHAPTER 89.

### BILLBOARD REGULATIONS

Sec. 3140. Payment of tax required. No person shall erect, place or maintain any billboard or engage in or carry on the business or occupation of outdoor advertising or maintaining billboards without paying the tax provided for in this chapter.

Sec. 3141. Tax, amount of. The tax shall be payable on the first day of each fiscal year and the amount thereof shall be two hundred and fifty dollars per year. In case the acts or business in respect of which the tax is payable, shall begin after the first day of a fiscal year, the tax for such year shall be paid at the time of such beginning.

Sec. 3142. Size of billboard. It shall be unlawful for any person to erect, construct or maintain, or to cause and permit to be erected, constructed, or maintained within the city and county of Honolulu any billboard of a surface

sign space of more than ten feet six inches in height. An ornamental moulding or cornice not to exceed two feet in width may be placed around the surface sign space of any billboard and ornamental posts or columns may be placed at each end of such sign space. An ornamental lattice work may be placed between the lower edge of the sign space and the surface of the ground.

Sec. 3143. Construction requirements. It shall be unlawful for any person to erect, construct or maintain, or to cause or permit to be erected, constructed, or maintained within the city and county of Honolulu, any billboard except in accordance with this chapter, and unless the same be safely and securely built and constructed, and erected upon posts or standards sunk at least three feet below the natural surface of the ground, and unless the same be braced by timbers, or metal rods in the rear thereof, extending from the top of the billboard to a point in the ground at least a distance equal to one-half the height of such billboard, measured along the ground, from the posts or standards upon which the billboard is erected.

Every billboard having an advertising surface in excess of twenty square feet shall be built to withstand a lateral wind pressure of twenty pounds per square foot of exposed surface.

Nothing in this section contained shall be deemed or construed as applying to any billboard the full length of which is securely fastened to, or the vertical supports of which are placed against and securely fastened to, the side of a building in the business district defined in section 3153.

Sec. 3144. Building permit; fee. It shall be unlawful for any person to erect or construct any billboard without first obtaining a building permit therefor from the building inspector of the city and county. The application for such permit shall contain the name and address of the applicant, the proposed location of the billboard and the dimensions of the advertising surface thereof. The application shall be accompanied by specifications for the erection of the proposed billboard and a permit fee of three dollars.

If the building inspector finds that the proposed billboard may be erected, constructed, or maintained on the proposed location without danger to the public health, morals or safety, he may, in his discretion, grant the permit applied for.

Sec. 3145. In business district only. No person shall erect or maintain any billboard or outdoor advertising in the city and county of Honolulu except in the business district defined in section 3153.

Sec. 3146. Billboards near street; loose materials. All billboards which are constructed on street lines or within three feet therefrom, shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom, except electrical reflectors or devices extending over the top and in front of the billboard to be used for illuminating purposes.

No paper, cloth or advertising matter shall be allowed or permitted to hang loose from any billboard, but the same shall be securely fastened or glued to the surface of the billboard.

Sec. 3147. Unlawful posting. It shall be unlawful for any person except a public officer or employee in performance of a public duty, to paste, paint, print, nail, tack or otherwise fasten any card, banner, hand-bill, sign, poster or advertisement or notice of any kind or cause the same to be done, on any curbstone,

lamp-post, pole, hitching-post, watering trough, hydrant, bridge or tree upon a public street or public property within the city and county of Honolulu, except as may be required by the ordinances of the said city and county of Honolulu, or the laws of the Territory or of the United States.

Sec. 3148. Same; consent of owner. It shall be unlawful for any person, except a public officer or employee in performance of a public duty, or a private person in giving a legal notice, to paste, post, paint, print, nail or tack or otherwise fasten any card, banner, hand-bill, sign, poster, advertisement or notice of any kind upon any property without the written consent of the owner, holder, lessee, agent or trustee thereof.

Any advertisement prohibited by this section and the next preceding section may be taken down, moved or destroyed by any one.

Sec. 3149. Scattering debris. No person shall scatter, daub or leave any paint, paste, glue or other substance used for painting or affixing advertisement matter upon any public street or sidewalk or scatter or throw or permit to be scattered or thrown any bills, waste matter, paper, cloth or materials of whatsoever kind removed from billboards on any public street or on private property.

Sec. 3150. Name of owner must appear. There shall be placed and maintained on the top of each billboard the name, plainly printed, of the person owning or who is in possession, charge or control of the same, for advertising purposes.

Sec. 3151. Owner's name on vehicle; employees' badge. Every person engaged in or carrying on the business or occupation of bill-posting or advertising sign painting or outdoor advertising or maintaining billboards shall cause the name of such person to be plainly painted in a conspicuous place on the outside of any wagon or vehicle used in such business or occupation and shall keep the same plain and distinct at all times. Every employee of any person engaged in such business or occupation, while employed in posting bills or painting signs or bulletins shall wear a metal badge or shield on which shall appear in legible characters the name of the person by whom such employee is employed.

Sec. 3152. Offensive signs. It shall be unlawful for any person to exhibit, post or display, or cause to be exhibited, posted or displayed, upon any billboard or painted wall sign, any statement, words or signs of an obscene, indecent or immoral nature, or any picture, illustration or delineation of any human figure in such detail as to offend public morality or decency, or of any lewd, lascivious act, or any other matter or thing of an obscene, indecent or immoral nature, or offensive to the moral sense.

Sec. 3153. Definitions; business district. "Billboard" is defined to be any board, fence, or sign erected or maintained for advertising purposes or upon which any advertisement is shown, or whereon any poster, bill, printing, painting, device or other advertising matter of any kind whatsoever may be placed, stuck, tacked, posted, printed, painted, pasted or fastened, but this definition shall not be held to include any board, sign or surface used to display official notices, issued by any court or public office, or posted by any public officer in the performance of a public duty, or used to display announcement of meetings to be held upon premises whereon such billboard or bulletin boards are displayed, or used to advertise any business conducted on the premises where such billboard or bulletin

board is located, nor shall it be held to include a real estate sign for a single lot or twenty square feet in area for a subdivision tract advertising for sale or rent the property upon which it stands.

"Outdoor advertising" is defined to be advertising on any board, fence or structure, or the placing thereon of any poster, bill, printing, painting, device or any advertising matter of any kind whatsoever, and the pasting, posting, printing, nailing or tacking or otherwise fastening of any hand-bill, card, banner, sign, poster, advertisement or notice of any kind upon any property or place.

"Block" is defined to mean that portion of a street (herein referred to as the primary street) between two cross streets which intersect one or both side lines thereof; provided, that in cases where a cross street intersects only one line of a primary street a straight line joining the center line of the terminating cross street, at its terminus with the nearest point on the opposite side of the primary street, shall limit the block on the other side of the primary street.

"Street" shall include all public thoroughfares except alleys.

The business district shall consist of and include all that portion of the city of Honolulu bounded as follows: by Beretania street on the north, Queen street on the south, Punchbowl street on the east, and River street on the west.

Sec. 3154. Penalties. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars and not exceeding five hundred dollars, or by imprisonment for not exceeding one month, or both fine and imprisonment.

## CHAPTER 90

## CIVIL SERVICE, FIRE DEPARTMENT

Sec. 3160. Commissioners, appointment, tenure, pay, oath. It shall be the duty of the mayor of the city and county of Honolulu, during the month of January in each odd numbered year, to appoint, with the approval of the board of supervisors, a board of fire commissioners, to be known as the Honolulu civil service commission, consisting of three citizens of the Territory, not more than two of whom shall be members of the same political party. Any member of the commission may be removed by the mayor, with the approval of the board, and vacancies in the commission shall be filled by the mayor with the approval of the board for the unexpired term. The city and county clerk shall act as secretary of the commission. Two members of the commission shall constitute a quorum. Each member of the commission shall receive compensation for services as may be fixed by the board, such compensation not to exceed the sum of two hundred dollars per annum, which shall be paid by the city and county upon the certificate of the secretary. Each member of the commission shall, before entering upon his duties, take and subscribe an oath of office in the form set forth in section 3041, and file the same in the office of the city and county clerk. Each of the commissioners shall have the power to subpoena witnesses to testify in any hearing before them and to administer oaths. The commission shall annually elect one of its members as chairman.

Sec. 3161. Approval of appointments. No person shall hold or be appointed to any position in the fire department of the city and county without the approval of the commission in accordance with its rules and regulations.

Sec. 3162. Rules and regulations. The commission shall prepare and adopt such rules and regulations to govern the selection and appointment of persons to be employed in the fire department as in its judgment shall be adapted to secure the best service in the department. Such rules and regulations shall provide for ascertaining as far as possible the physical and educational qualifications, habits and the reputation and standing and experience of all applicants, and shall provide for a competitive examination of all applicants in such subjects as shall be proper for the purpose of best determining their qualifications for the positions sought. Such rules and regulations may provide for the classification of positions and for a special course of inquiry and examination for candidates for each class, and shall be subject to modification or repeal by the commission.

Sec. 3163. Printing and distributing same. The commission shall cause the rules and regulations so prepared and adopted and all changes thereafter made to be printed and distributed, and the expense thereof shall be paid by the city and county on the certificate of the secretary of the commission. Such rules and regulations shall specify the date when they shall take effect, and thereafter all selections of persons for employment or appointment or promotion in the fire department shall be in accordance therewith.

Sec. 3164. Examination of applicants. The examination which the rules and regulations shall provide for, shall be public and free for all citizens of the Territory over twenty and under thirty-five years of age, with proper limitations as to residence, health, habits and character. The examinations shall be practical in their character and shall be conducted in either the English or the Hawaiian language; at the option of the person examined, and may include tests of manual skill and physical strength. The commission shall control all examinations and may designate suitable persons to conduct them and fix the rate of their compensation which shall be paid by the city and county on the certificate of the secretary of the commission.

Sec. 3165. Removal of employees. Whenever any person in the fire department has been appointed under these provisions, he shall hold his position during good behavior subject to removal only as provided by said rules and regulations.

Sec. 3166. Vacancies. When vacancies in existing positions occur, or when new positions are created in the fire department, which can with advantage to the department be filled by the promotion of persons in the service who have proved their fitness therefor, they shall be filled by the promotion of such persons. In all other cases vacancies shall be filled and all promotions made from the list of persons who have previously passed the examination required by the rules and regulations with the approval of the commission.

CHAPTER 90 A:

HONOLULU FLOOD CONTROL

Sec. 3167. Authority. The board of supervisors of the city and county of Honolulu is hereby authorized and empowered to construct, acquire by gift, purchase, or the exercise of eminent domain, reconstruct, improve, better, extend and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded.

Sec. 3167 A. Bonds; amount and purpose. To carry out the powers granted in section 3167 hereof, the board of supervisors of the city and county of Honolulu

is hereby empowered to issue bonds or other obligations of the city and county of Honolulu to one or more times in a total amount of not to exceed one million two hundred thousand dollars (\$1,200,000.00). Such bonds or other obligations shall be general obligations of the city and county of Honolulu, payable as to both interest and principal from the consolidated net revenues of the city and county of Honolulu. No portion of the funds realized from the sale of such bonds or other obligations shall be used for any purposes save those specified in this Act, and such bonds shall not be issued unless approved by the president of the United States. Not more than seven hundred thousand dollars (\$700,000.00) of such bonds may be issued in any one calendar year.

Sec. 3167-B. Form and conditions of bonds. The bonds or obligations herein authorized to be issued shall be coupon in form, shall bear interest at a rate not to exceed seven per centum per annum, and shall mature serially over a period of not to exceed thirty years, with or without the privilege of prior redemption as the board of supervisors may by resolution determine. If sold to the government of the United States or any agency or instrumentality thereof, said bonds or obligations may be sold at private sale at not less than par and accrued interest to the date of such sale. No election shall be necessary to authorize such bonds or other obligations, which may bear such date or dates, may be payable at such place or places and may carry such registration privileges as to either principal and interest or as to principal only, as the treasurer of said city and county of Honolulu, with the approval of the board of supervisors thereof, may provide. Except where inconsistent with the provisions of this Act, the provisions of Chapter 267 of the Revised Laws of Hawaii 1935, being Chapter 117, Session Laws of Hawaii of 1913, as amended, shall apply to bonds and other obligations issued under this Act.

Sec. 3167-C. Act contingent on Congress. This Act shall take effect immediately upon the enactment of legislation by the Congress of the United States enabling the legislature of the Territory of Hawaii to authorize the city and county of Honolulu to issue flood control bonds despite the restrictions upon indebtedness now imposed by Section 55 of the Act of April 30, 1900, as amended.

CHAPTER 91. HIGHWAYS, EXTENSION OR WIDENING OF CERTAIN STREETS

Sec. 3170. Certain streets extended, when. The streets in the district of Honolulu, on the island of Oahu, now known as Bates, Pensacola and Queen streets, shall be extended as in this chapter set forth, at such times as the board of supervisors shall decide, according to the respective surveys for such extension thereof in section 3172, anything in chapter 92 to the contrary notwithstanding. And whenever the board shall deem it desirable for the public convenience so to extend said streets or any of them, as aforesaid, it may cause the same to be done, after requiring the damages and betterments which such extension or extensions will cause in private real estate affected thereby to be appraised according to the provisions of said chapter.

Sec. 3171. Maps. Until the aforesaid extensions are carried out respectively the surveyor shall keep in the office of the territorial survey, charts of such proposed street extensions, which shall be open to public examination during office hours without fee.

Sec. 3172. Schedule: (1) Bates Street Extension. Nuuanu to Liliha. 42 feet in width. Mauka line. (2) Pensacola Street Extension. Beretania to King. 56.0 feet in width. Southeast line. (3) Queen Street Extension. 56.0 feet in width.

Mauka line.

### WIDENING

Sec. 3173. Certain streets widened, when. The streets in the district of Honolulu, on the island of Oahu, now known as Beretania, Richards, Judd and Nuuanu streets, shall be widened as in this chapter set forth at such times as the board of supervisors shall decide; according to the respective surveys for such widening thereof set forth in section 3176, anything in chapter 92 to the contrary notwithstanding.

And whenever the board shall deem it desirable for the public convenience so to increase the width of said streets or any of them, as aforesaid, the board may cause the same to be done after requiring the damages and betterments which such increase of width will cause in private real estate affected thereby, to be appraised and settled according to the provisions of the said chapter, except as otherwise provided in section 3174; provided, however, that if the board, by ordinance, modify such lines hereinafter set forth, changes may be made in the same.

Sec. 3174. No damages for improvements, when. If any person shall make or construct any buildings or improvements of any kind within the lines of street widening as in this chapter set forth, such person and his representatives shall be without remedy at law or in equity for any injury, loss or damage that may be caused by the removal or destruction of such buildings or improvements, when such removal or destruction is required by the widening of such streets as aforesaid.

Sec. 3175. Maps. Until the aforesaid street widenings are carried out respectively, the surveyor shall keep in the office of the territorial survey, charts of such proposed street widening, which shall be open to public inspection during office hours without fee.

Sec. 3176. Schedule. Beretania street. 56.0 feet in width. Mauka side and makai line. Richards Street Widening. Beretania to Halekauwila. 60.0 feet in width. Northwest line. Judd Street. 50.0 feet in width, mauka and makai sides. Nuuanu Street. 50.0 feet in width. Northwest side.

## CHAPTER 92.

### HIGHWAYS, IMPROVEMENT BY ASSESSMENT

Sec. 3180. Method. Whenever in the opinion of the board of supervisors of the city and county it is desirable to establish, open, extend, widen or alter any street, alley or other highway, including sidewalks, in the district of Honolulu, except Moanalua, or to grade, pave, curb, or macadamize or otherwise improve the whole or any part of any existing public street, alley or other highway or sidewalks in the district of Honolulu, except Moanalua, including the construction of a storm drainage system, or otherwise improve the same to an extent exceeding maintenance and repair thereof, or to construct or improve a storm drainage system independently, such betterments or improvements shall be made and done under the provisions of this chapter; and the cost thereof, including the cost of acquiring any new land therefor, and the cost of any new land therefor which may have been acquired by the city and county prior to the commencement of the proceedings for such betterments or improvements, shall be assessed against the land specially benefited, either on a frontage basis or according to area of the land within an improvement district or on both an area and frontage basis; and the city and county

may issue and sell bonds to provide the funds for such improvements, which bonds shall be secured by such assessments as a lien upon the lands assessed; and for such purpose the board is vested with power and is authorized to create, define and establish frontage improvements or improvement districts; all according to the provisions of this chapter.

Nothing in this chapter shall prevent the city and county, through its proper officials, from compelling abutting property owners at their own expense to construct, maintain and repair sidewalks and curbs in front of the abutting property under any statute or ordinance.

Sec. 3181. Sewers included. The term "storm drainage system" whenever used in this chapter shall include "sanitary sewerage system"; provided, however, that the board shall not be required to construct any sanitary sewerage system under the provisions of this chapter, except as provided under sections 3187 and 3188.

Sec. 3182. Improvements in districts other than district of Honolulu. In districts other than the district of Honolulu, the construction of any of the betterments or improvements provided for by this chapter may be initiated by petition as and in the manner prescribed in section 3187 and section 3188. If, after receipt of such petition, the board shall, by resolution, assent to proceeding with the proposed improvement, it shall thereupon proceed in the same manner as though such proposed improvement were to be made and done in the district of Honolulu.

Sec. 3183. Public land or land exempt from taxation, etc.; cost otherwise assessable against borne by municipality. Whenever any public land, or any land by law exempted from assessments of the character provided for in this chapter, forms part of any improvement district or fronts upon any street, alley, or other highways to be opened or improved or along which a storm drainage system is to be constructed or improved independently and would, if privately owned or not exempt from such assessment, be subject to assessment, the board shall, nevertheless, without assessing such public or exempted land for any part of the cost of such improvements, by general ordinance appropriate and pay toward such improvements out of general revenues the portion of the cost thereof which would otherwise be assessable against the same in a lump sum, or, at the election of the board, in such equal instalments and with such interest thereon as the board shall determine; and with respect to any such proposed improvement where any part of the cost is thus to be borne by the city and county, the board shall have the same right of approval or protest as though the city and county were the private owner of the public or exempted land so involved. And, as to such expenditures for public and exempt land, the city and county, shall be entitled to be reimbursed out of territorial revenues by appropriations to be made from time to time by the legislature to the extent of fifty per centum of all assessments regularly apportioned against persons, corporations or entities, which are a part of any improvement district or frontage improvement and are exempted by law from the payment of such assessments; and the city and county shall be entitled to be likewise reimbursed for the full amount of assessments regularly apportioned against public lands which are a part of any improvement district or frontage improvement, which public lands are owned in fee simple by the United States, or by the Territory, and which are not set aside for schools maintained by the city and county, or for city parks, or for other city and county purposes or for street areas or frontages; provided, however, that as to the University of Hawaii, Kapiolani park and the Waikiki parks established by the Laws of 1905, chapter 103, section 1, the city and county shall be entitled to full reimbursement for improvement assessments; and provided, further, that in case any land exempted by law from assessments as herein provided, other than public land, or any part thereof, is sold or leased after the establishment

of a frontage improvement or an improvement district, the grantee, in the one case and the lessor in the other, shall assume the payment of assessments from the date of such sale or lease in the same manner as if the property had not been exempted from assessments and as if assessments proportionable against the property had been paid in instalments to such date of sale or lease; and that all payments received from such grantee or lessor as the case may be, shall be paid into the permanent improvement fund. Nothing in this section shall be taken to prejudice any rights of the Territory to reimbursement from the United States for assessments herein assumed by the Territory, but the latter shall be subrogated to the rights of the city and county on such assessments so assumed.

Sec. 3184. Costs and assessments borne by municipality. The city and county shall pay out of general revenues, including any permanent improvement fund, and notwithstanding any limitation as to purpose placed on such fund, the entire cost of engineering, incidentals and inspection, shall also pay therefrom in case of frontage improvement the cost assessable against the frontage or frontages of any adjoining or cross street, or, in case of area improvement districts, the cost of improving the area common to both streets at the intersection of any cross street or one-half the area opposite the intersection of any adjoining street, and further shall also pay therefrom thirty-three and one-third per centum of the total cost of general improvements (excluding engineering, incidentals and inspection and cost of new curbing and sidewalks) upon or along all main or general thoroughfares, as hereinafter defined, and upon or along all other streets or highways, except where improvements are initiated under section 3187; provided, that in the case of a main or general thoroughfare directly connecting the district of Honolulu with other portions of the city and county, it shall be lawful for the city and county to assume and pay out of the general revenues, including any improvement fund all or any part of the cost of pavement in excess of twenty-six feet in width. A main or general thoroughfare within the meaning hereof shall be any street or highway as is subjected to more than ordinary traffic and travel by the general public or which serves as a generally necessary connecting thoroughfare between substantially different or naturally separated localities or sections of Honolulu.

And further, the board whenever in its judgment the interest of the city and county will be best served and to protect the city and county from claims for damages from surface waters, may provide for the collection and disposition of storm waters by proceeding independently of any other improvement, or may make such matter a part of any other improvement proceedings, and in either event, pay the whole or any part of the cost thereof out of general revenues, including any permanent improvement fund, or may assess the whole or any part of the cost thereof according to the benefits arising therefrom and in the manner provided for apportioning assessments for general improvements. And it shall be lawful for the city and county to assume and pay out of the general revenues, including any permanent improvement fund, all or any part of the cost of acquiring any new land required for any improvement under the provisions of this chapter.

Sec. 3185. Initial procedure. The board shall by resolution requiring not more than one reading for its adoption, direct the city and county engineer to investigate and report to the board preliminary data concerning the highway or highways or storm drainage system proposed to be opened, constructed or improved, the general character and extent of any improvement to be proposed, whether such improvement should be proposed on a frontage or an area basis, whether any new land will be necessary to be acquired, and the estimated cost thereof and the proportion of the cost which should be borne by the city and county, the materials recommended

to meet the conditions of the improvement, the boundaries of the improvement to be proposed and any sub-districts or zones therein as to which different portions of the cost should be charged, the estimated cost of the improvements, the portions of the cost to be borne by the city and county, and the portions of the cost to be specifically assessed against the lands specially benefited with the maximum unit of assessment to be made against the property to be assessed according to the method of assessment to be proposed; and to prepare and furnish all necessary preliminary surveys, maps, plans, drawings and other data, details and specifications for the improvements and any other matters or details intended to apply thereto. The report, when so furnished and filed with the board, shall not be acted upon until one week has elapsed from the date of the filing of the same.

Thereafter the board may, by resolution requiring one reading for its adoption, propose the making of an improvement or improvements specifying the streets or storm drainage system to be opened, constructed or improved, the area, owner, so far as known, and general description and location of new land to be acquired, if any; the materials proposed to be used; the proposed method of assessment including the minimum number of instalment payments to be proposed; the general boundaries of the district or frontage, sub-districts and zones to be assessed; the maximum estimated unit of assessment. Such resolution shall refer to and incorporate by reference such surveys, plans, maps and other data reported by the engineer as shall be approved by the board. The resolution shall also fix a date of public hearing upon the proposed improvement, which date shall be not less than fifteen days after the first publication of notice thereof in a newspaper of general circulation in the district of Honolulu.

After the adoption of the resolution, the city and county clerk shall cause a notice of the public hearing to be published twice a week for two successive weeks (four publications in all) in a newspaper of general circulation in the district of Honolulu, giving notice generally to all owners, lessees and occupants of land proposed to be assessed or acquired and to all others interested of the general details of the proposed improvements as adopted by the board and stating the time and place of public hearing and where the resolutions and reports and other data may be seen and examined prior to the hearing. Like notices shall be posted conspicuously at least ten days prior to the hearing approximately every two hundred and fifty feet along the highway or highways proposed to be opened or improved. In case of a storm drainage system proposed to be constructed or improved independently like notices shall be posted conspicuously at various places within the area or along the frontage to be assessed. Affidavits of publication both in the newspaper and along the route of improvement respectively shall be filed with the board at the hearing.

Sec. 3186. Protests, objections, suggestions. Any owner of property proposed to be assessed may at any time prior to or at the public hearing file in writing with the board any protest, objection or suggestion as to the proposed improvement, stating briefly his reason therefor, or present the same in person, orally, at the public hearing. If the owners of fifty-five per centum of the total frontage or area to be assessed for such improvements shall at the hearing or prior thereto file with the board written protests, duly acknowledged by such owners, against the making of the improvements or against any part of the plan therefor, the same shall not be made contrary to the protest. If the protest is against the making of any improvement, the same shall not be made, and the proceedings shall not be renewed within six months from the date of closing the public hearing, unless each and every owner protesting shall sooner withdraw his protest; provided, that any lessee of any property to be assessed under this chapter, who by the express terms of his lease must pay the kind of assessments contemplated by this chapter

shall be subrogated to all the rights of such owner to protest by filing with the board prior to or at the hearing a certified copy of his lease, together with a citation of the book and page of the public record of the same if it be recorded; provided, however, that any lessor of such lessee, or any owner of the property to be assessed, may, at any time before the closing of the public hearing, make void the protest or the right of protest of any lessee of the property on consideration of filing with the board a duly acknowledged waiver of the stipulation in the lease which requires the lessee to pay the special assessment, and a written undertaking by the lessor or owner to pay the special assessment to be made under the proposed improvement.

Sec. 3187. Petition of owners. If the owners of not less than sixty per centum of the frontage upon any street, alley or highway designated by them, or of sixty per centum of the area of land designated by them as a proposed improvement district, shall file with the board a petition duly acknowledged by the owners requesting the opening or improvement of such street, alley or highway, or of the streets, alleys or highways in the proposed improvement district, or for the construction or improvement of a storm drainage system, sewerage system, water main and service pipe system or street lighting system, together with the surveys, maps, plans, and other preliminary data and estimates mentioned in section 3185 in the case of a proceeding initiated by the board, the board shall thereupon proceed thereon in the same manner as though the plan for such improvements had been initiated on its own motion; and the cost of the preliminary surveys, maps and other data, if not in excess of the estimate therefor stated in the petition, shall be deemed part of the cost of the improvement; provided, however, that upon such petition the board shall not have power to abandon the proceedings or make any change or modification of the plans or the details or specifications for the proposed improvements without the written and duly acknowledged consent of the owners, of not less than sixty per centum of the frontage or area of the land to be assessed; except that the board may decline to acquiesce in or may modify any part of the plan which contemplates the payment by the city and county of any part of the cost of acquiring new land or of any part of the cost of improving any main or general thoroughfare, and in such event, if the owners of not less than sixty per centum of the frontage or property to be assessed shall in writing acquiesce in the change or modification, the board shall be bound to proceed with the plan as so modified.

Sec. 3188. Petition by owners of one hundred per centum of frontage or area. If a petition is filed and is acknowledged by the owners of one hundred per centum of the frontage upon any street, alley or highway or of the area of land designated by them as a proposed improvement district, and by all lessees of any property to be assessed under this chapter, who, by the express terms of the lease, must pay the kind of assessment contemplated by this chapter, unless the lessor shall, with the petition, file a duly acknowledged waiver of the stipulation in the lease which requires the lessee to pay the special assessments, and a written undertaking by the lessor or owner, to pay the special assessments to be made under the proposed improvement, then the board shall proceed in the same manner as though the plan for the improvement had been initiated on its own motion, excepting that it shall be unnecessary for the board to give, publish or post notice of, call or conduct a public hearing or to publish or post notices of the proposed improvements, as provided for in section 3185; and in the case of a petition acknowledged by the owners of one hundred per centum as aforesaid, section 3186 shall be inapplicable thereto, any other provision or section to the contrary, notwithstanding; and in case the owners of one hundred per centum as aforesaid, shall, in writing, consent to the amount and apportionment of the proposed assessments for such improvements, it shall be unnecessary to give the notice or to hold the hear-

ing specified by section 3191 and the board may immediately proceed to fix the assessment or assessments in the manner provided by section 3192.

No such improvement shall be approved by the board unless the assessed valuation for taxation purposes of the land to be so improved is twice the cost of the proposed improvement.

Sec. 3189. Determination by supervisors. After the hearing provided in section 3185, the board shall consider any protests, objections, or suggestions which may have been made or filed and whether sufficient valid protests have been filed to compel it to abandon any part or all of the proposed improvement. If the board still has jurisdiction to continue it shall then proceed, determine whether or not the proposed improvements shall be made as proposed, or made with modifications, and in the latter event modifications or changes, not substantially reducing the frontage or area to be assessed, and not increasing the maximum estimated unit of assessment, or lessening the unit cost per front foot or square foot may be made without again giving notice of a hearing as provided in section 3185; provided, such modifications or changes shall not materially alter the general character or plan so advertised. If, after such initial or further advertisement and hearing when no changes are made which will require further advertisement or hearing, the board shall have determined to proceed with the improvements, it shall, by resolution requiring not more than one reading for its adoption, create, define and establish the extent of the frontage improvement or the improvement district to be assessed, as the case may be, and define the kind, extent and general details of the proposed improvements, describe each parcel of land to be acquired; if any, declare the part or proportion of the cost of the improvement which is to be borne by the city and county as aforesaid, the method of assessment, and the kinds of materials to be used, and by the resolution further direct the city and county engineer to prepare a corrected map of the highway or highways to be improved showing the abutting lands, or of the improvement district showing the highways therein to be improved, or the storm drainage system to be constructed or improved, as the case may be, and showing the exact location of the improvements; together with final details, plans and specifications for the work; all in such form as will readily permit and encourage genuine competition between contractors insofar as the materials specified will permit of such competition; and the same, when by resolution similarly approved and adopted by the board, shall be used as the basis for the calling of bids and awarding of a contract or contracts for the work as hereinafter provided.

In case the improvements so determined upon shall require the acquisition of any new land therefor, the board shall acquire the same before final award of the contract, either by deed, or other voluntary conveyance from the owners thereof, or it may, at its option, and in the name of the city and county cause condemnation proceedings to be brought to acquire the same in like manner as by law provided for like proceedings when brought by the superintendent of public works, and after the filing of the petition in such proceedings the final award of the contract may be made. If the cost of acquiring such land shall exceed the estimate therefor, the board may provide for the excess cost by general appropriation.

Sec. 3190. Contract, bids, bonds. All improvements made under the provisions of this chapter shall be constructed under contract let to the lowest responsible and reliable bidder therefor, after public advertisement by the board in some newspaper of general circulation published in the city and county twice a week for not less than two weeks; the board may either let the work as an entire contract, or, in its discretion, make one or more contracts separately for the different kinds of work to be performed; or for the improvement of different highways or parts of highways to be improved under one proceeding. No bid shall be considered

unless accompanied by a certified check, or its equivalent, payable to and in favor of the city and county, for not less than five per centum of the amount of the bid, which check, or its equivalent shall be forfeited to the city and county, unless the successful bidder shall sign the contract and furnish an approved bond within the time specified by the board. No bid in excess of the estimated costs shall be accepted by the board without the written and acknowledged approval of the owners of at least sixty per centum of the frontage or area to be assessed, as the case may be; and the board shall have the right to reject any and all bids and in such case to readvertise for tenders if it deems it advisable to do so. But no contract shall be made without a bond to the city and county for the faithful performance of such contract in an amount not less than fifty per centum of the contract price, with at least two sufficient sureties, each of whom shall be worth not less than the full amount of the bond over and above all property exempt from execution, and who shall, upon the written demand of the supervisors or of any owner of property subject to assessment, be required to justify thereon on an examination under oath before the board; instead of personal sureties, a duly qualified surety company may be substituted as provided by law. If upon such examination any surety shall be held insufficient, a new bond with sufficient sureties shall be filed by the successful bidder within the time specified and allowed by the board, or the contract to him and the deposit shall be forfeited. Upon the contract being signed and a sufficient bond furnished as aforesaid, the deposit made with the bid shall be returned to the contractor. Any other method of letting contracts shall be illegal and void.

The board may, any other provision of the law to the contrary notwithstanding, let the contract without having the total amount of the contract price available, and if the completion of the contract will extend beyond the fiscal year in which the same is executed it may be let without the board appropriating the total amount the city and county is obliged to pay towards the contract price. In the latter event, however, the city and county must have available and appropriated at the time of letting the contract, if the same is to be completed during the next succeeding fiscal year, at least fifty per centum or if the same by its terms is not to be completed until beyond the next succeeding fiscal year at least thirty-three and one-third per centum of the amount the city and county is obliged to pay toward the contract price and the balance shall in the first event be a first charge on the revenues of the city and county for the next succeeding fiscal year and in the latter event to be a first charge on the revenues of each of the next two succeeding fiscal years in the amount that the same will be required during such fiscal years but in an amount of not less than fifty per centum of the balance at the beginning of the first succeeding fiscal year and the remainder at the beginning of the second succeeding fiscal year. The contract shall not be legal unless, before it is let, the board by resolution provides for the automatic appropriation at the beginning of the next succeeding fiscal years of the amounts herein made a first charge on the revenues of the city and county for such fiscal year and the auditor of the city and county shall make the appropriations on his books as by the resolution provided.

Sec. 3191. Notice of improvement authorized. The board shall cause to be prepared by the city and county engineer a corrected map similar to that required under section 3185, and a preliminary assessment roll and description of properties to be assessed showing in detail the proportionate amount per front foot, and the exterior boundaries of the lands subject to assessment if the assessment is to be made on such basis, or per square foot, if the assessment is to be made according to area, proposed to be assessed against the property in the benefited district or in the several sub-districts or zones thereof, if any, and a list of all known

owners, lessees and occupants of the land fronting upon such highway or highways or situate within the improvement district, and shall thereupon by advertisement in the same manner as that provided in said section 3185, give notice of the total amount of the cost of the improvement based upon the bid of the lowest responsible and reliable bidder, the maximum share per front foot or per square foot, as the case may be, proposed to be charged to the benefited district or sub-districts or zones, if any, and that the corrected map, preliminary assessment roll and description of properties may be seen and examined at the office of the city and county engineer during business hours at any time prior to and including the date fixed for hearing; the notice shall also fix a date and place when a public hearing will be had and the board will sit as a board of equalization to receive complaints or objections respecting the total amounts of the proposed several assessments, which date shall not be less than ten days nor more than three weeks after the date of the first newspaper publication of the notice.

Sec. 3192. Assessments fixed by ordinance. After the hearing, the board shall forthwith proceed to make such modifications or changes as to them may seem equitable or just, or shall confirm the first proposed assessment, and upon reaching a final decision shall thereupon, by ordinance, fix the portions of the cost to be assessed against the benefited properties and against the owners thereof respectively, which such ordinance shall incorporate by reference the assessment roll as approved by the board, and after the final enactment of such ordinance the amounts of the several assessments so listed, advertised and incorporated and not previously objected to shall be conclusively presumed to be just and equitable and not in excess of the special benefits accruing ~~or to accrue~~ by reason of the improvement to the specific property assessed.

Sec. 3193. Notice and collection of assessments. It shall be the duty of the treasurer of the city and county forthwith to post notice of assessments upon the land assessed, and to notify the several owners, lessees or occupants, respectively, by registered letter and request a return receipt therefor, of the several amounts assessed on the respective properties and of the date when such assessments are payable. It shall also be his duty to collect such assessments and to set aside all moneys so collected in a special fund or funds for the frontage improvement or improvement district, as the case may be.

Sec. 3194. Assessments payable when. All assessments so made shall be due and payable within thirty days after the date of the last publication of the ordinance; provided that any assessments may, at the election of the owner of the land assessed, be paid in instalments with interest, as hereinafter provided. Failure to pay the whole of any assessment within the period of thirty days shall be conclusively considered and hold an election on the part of all persons interested in such assessments, whether under disability or otherwise, to pay in instalments. All persons so electing to pay in instalments shall be conclusively considered and hold to have consented to the improvement and such election shall be conclusively held and considered as a waiver of any and all right to question all power or jurisdiction of the city and county to make the improvement, the regularity or the sufficiency of the proceedings, or the validity or correctness of the assessment.

Sec. 3195. Lien; new assessment. All assessments made pursuant to this chapter shall be a lien against each lot or parcel of land assessed from the date of the first publication of the ordinance declaring the assessment until paid and shall have priority over all other liens except the lien of property taxes and for other public purposes. No delay, mistake, error, defect, or irregularity in any act or proceeding authorized by said sections shall prejudice or invalidate any

assessment; but the same may be remedied by subsequent or amended acts or proceedings and, when so remedied, the same shall take effect as of the date of the original act or proceeding. If in any court of competent jurisdiction any assessment made under said sections is set aside for irregularity in the proceedings, the board may, upon notice as required in making an original assessment, make a new assessment in accordance with the provisions of said sections.

Sec. 3196. Instalments payable when. In case of an election to pay any assessment in instalments, the assessment shall be payable in not less than five nor more than twenty equal annual instalments of principal, and each annual instalment may in turn be made payable in twelve equal monthly instalments as hereinafter provided. Interest, in all cases, shall be paid on the unpaid principal, payable annually at a rate not exceeding six per centum per annum. The number of such annual instalments and period of payment and the rate of interest shall be as determined by the board; provided, however, that after the annual instalments are determined and fixed if it shall appear to be of advantage to the assessor, the board may permit the treasurer to accept payments in monthly instalments as hereinabove provided.

Sec. 3196 A. Payment in bonds. The treasurer may accept in lieu of cash in payment of any assessment, installment thereof, interest, penalty, cost, expense or any portion thereof, bonds of the improvement district in which the land is situated, whether such bonds are outstanding or hereafter issued, to a value of par, plus accrued interest to the date of acceptance of such bonds by the treasurer. Upon the receipt of such bonds, the treasurer shall cancel same and credit the improvement district with the amount allowed on the bonds.

Sec. 3197. Effect of failure to pay instalment. Failure to pay any instalment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately and the whole amount of unpaid principal and accrued interest shall thereafter draw interest at the rate of one per centum per month or fraction of a month until the day of sale as hereinafter provided; but at any time prior to the day of sale the owner may pay the amount of all delinquent instalments with interest thereon at one per centum per month or fraction of a month, and all costs and expenses accrued, and shall thereupon be restored to the right thereafter to pay in instalments in the same manner as if default had not been made. The owner of any land assessed, not in default as to any instalment or payment, may at any time after the expiration of the first thirty day period pay the entire unpaid principal with interest thereon to the next subsequent annual date for the payment of instalments.

Sec. 3198. Owner of undivided interest. The owner of any undivided interest in any land may pay the whole assessment and may have a joint or several right of action at law in assumpsit against the other owners of any interest in such land for their proportionate share of the assessment.

Sec. 3199. Sale for default. In case of default in the payment of any instalment of principal and interest when due, the treasurer shall advertise and sell the property concerning which default is made for the whole of the unpaid assessment thereon, interest and costs; provided, however, that the purchaser of such property shall be permitted to pay in cash the total amount of the delinquent instalment or instalments of principal and interest and penalty, and the balance in equal annual or monthly instalments as originally provided. Such sale and advertisement shall be made by the treasurer in the same manner, under the same conditions

and penalties and with the same effect as provided by general law for sales of real property for default in payment of property taxes.

Sec. 3200. Purchase at sale. At any sale for default in payment of any assessment as aforesaid, the treasurer may accept, in lieu of cash, in payment for the land so sold, bonds of such improvement district whether such bonds are then outstanding or hereafter issued, to a value of par plus accrued interest to date of sale. Upon the receipt of such bonds the treasurer shall cancel same and credit the improvement district with the amount allowed on the bonds.

Sec. 3201. Improvement bonds authorized. In the event of an election to pay all or any part of any such special assessment in instalments, the amount required for immediate use to pay the contract price of the improvement, or the instalment, or the instalments thereof from time to time as they fall due may be advanced out of any funds available in the general fund or the permanent improvement fund; provided that as soon as practicable the amounts so necessary shall be secured, and repaid if advances have been made, by the issuance of sufficient district improvement bonds of the city and county to raise such required amount or amounts. Such bonds shall be in such form as may be prescribed by the board, shall bear the name of the benefited or improved district, shall be payable to bearer in a sufficient period of years to cover the outstanding instalment payments determined upon pursuant to the provisions of this chapter, and shall be subject to call but not prior to the second interest date thereof as hereinafter provided. The bonds of each issue shall bear serial numbers, shall be of such denomination, not exceeding one thousand dollars each, as may be determined by the board, and shall bear interest at the rate of not more than six per centum per annum, payable semi-annually, as may be determined by the board.

Such bonds shall be executed by the treasurer and issued pursuant to and under the authority and requirements of resolutions of the board. The bonds shall be countersigned by the mayor and attested by the clerk and by the seal of the city and county. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer. The treasurer shall preserve a record of the bonds in a suitable book kept for that purpose. The bonds shall be payable only out of the moneys collected on account of assessments made for the improvement for which they are issued and the city and county shall not otherwise guarantee payment of any bonds issued under the provisions of this chapter; provided, however, that interest payments may be advanced by the board out of any moneys available in the improvement district revolving fund.

All moneys collected on account of assessments and interest for any improvement after the issuance of any bonds shall be kept by the treasurer in a special fund and applied solely to the payment of interest and principal of bonds issued for such improvement until such bonds shall have been paid. In the event that any surplus shall remain in any such special fund after the payment of the bonds chargeable against such fund or in case of a premium received on the sale of the bonds, it shall be credited to and become a part of a fund to be known as the improvement district revolving fund, the moneys in which shall be available to make up deficiencies in the proceeds of bonds sold below par; to cover deficiencies in interest realized on account of diminishing balances of instalments outstanding, to advance interest due on bonds outstanding prior to collection of annual assessments, and also for the purpose of paying all expenses in connection with the sale of delinquent improvement district lots and the prices of such delinquent lots as are bid for and purchased by the treasurer for the city and county, and the treasurer is authorized upon such purchase to transfer the proper amounts so bid to the proper special funds for the respective improvement districts concerned.

The principal and interest of the bonds shall be payable at the office of the treasurer of the city and county of Honolulu and may also be made payable at the office of any bank or fiduciary company in such other places as may be determined by the board. In all cases the bonds and coupons shall recite the places of payment. In case any bonds are made payable elsewhere than in Honolulu, the treasurer shall remit the funds necessary to pay the interest and principal when due, of any such bonds, with exchange, to the institution so designated, first assuring himself that such institution is then solvent.

Bonds so issued may be used by the board at par at the time of final acceptance of the contract to pay wholly or in part the contract price of any improvement made as aforesaid, or, in the event that the bonds are not so used, they shall then be sold to the highest bidder or bidders therefor, after public advertisement for tenders for at least once each week for not less than two successive weeks in a suitable newspaper of general circulation published in the city and county, and the proceeds thereof shall be so applied; provided, however, that in the event at an advertised sale only part of the issue so advertised be bid for, thereafter, the board may authorize the treasurer, by resolution, requiring one reading for adoption to sell the whole or any part of the remainder of such issue at the highest bid so received to any person at private sale. In the event no purchaser is found, the city and county may be the purchaser of any such bonds, using any funds available and unspent.

Sec. 3202. Payment before maturity. On and after the second interest due date of any bonds so issued and annually thereafter, whenever sufficient funds are in the hands of the treasurer, exceeding the next interest payment on the unpaid balance of any bonds so issued, the board may direct the treasurer, by resolution, to call for payment, by advertisement for not less than five days in some newspaper of general circulation published in Honolulu or other places, such a number of bonds as there are funds to pay; and in each case the bonds to be called for payment shall be those of the lowest outstanding serial numbers, which serial numbers shall be specified in the advertisement so published. At the expiration of thirty days from the first publication of such notice interest on the bonds so called for payment shall cease; and the moneys provided for the payment of such bonds with the interest unpaid to the date of their call for payment shall be set aside by the treasurer in a special deposit to which fund only the owners of the bonds shall thereafter look for payment.

Sec. 3203. Payment at maturity. All bonds not previously paid shall be paid at maturity together with interest thereon as the same become due at the places and in the manner prescribed by this chapter.

Sec. 3204. Limitation time to sue. No action or proceeding at law or inequity to review any acts or proceedings or to question the validity or enjoin the performance of any act or the issue or payment of any bonds, or the levy or collection of any assessments authorized by this chapter, or for any other relief against any acts or proceedings, done or had under this chapter, whether based upon irregularities or jurisdictional defects, or otherwise, shall be maintained unless begun within thirty days after performance of the act or the passage of the resolution or ordinance complained of.

Sec. 3205. Bonds not chargeable against general revenues. No bonds issued under the provisions of this chapter shall be considered as city and county bonds within the meaning of section 1921, nor shall the payment of the same be a charge against the general revenues of the city and county.

Sec. 3206. Certificate by treasurer. The treasurer shall on request give a certificate in writing to any person making request for same, showing in the certificate the balance due on any individual assessment for improvements for principal, with the date of next instalment payment, the number of the instalment payment and the amount to be due for the instalment payment and particulars of interest and penalty on the next instalment date to be due and owing.

Sec. 3206 A. Sale of land bid in by treasurer at sale. Whenever any land shall have been bid in by the treasurer at any sale for default of the owner thereof, the treasurer, in making such sale thereof as may by law be authorized, may sell the same upon the following terms and conditions:

- (a) a down payment at the sale of twenty per cent of the purchase price;
- (b) the balance payable in monthly instalments of not less than one and one-third per cent of the total purchase price, plus interest of five per cent upon all unpaid balances;
- (c) that failure for thirty days to pay any instalment due shall effect an entire default of the purchaser's right, title and interest in such land and in any payments previously made by him on account thereof;
- (d) subject to such building restrictions as the treasurer may prescribe;
- (e) that such land when sold upon the foregoing terms and conditions shall be subject to real property taxes.

#### REFUNDING BONDS

Sec. 3207. Refunding authorized. The board is authorized and empowered to provide for the refunding of the outstanding indebtedness of improvement districts located within the city and county, which were created according to law subsequent to December 31, 1925, in the manner hereinafter provided.

Sec. 3208. Initiation of refunding. The owners of real property in any improvement district whose property represents seventy-five per centum or more of the outstanding improvement assessments at the time of the filing of the petition shall, if it is desired that the indebtedness of the district be refunded, file with the board a petition, which petition shall set forth the indebtedness of the district, that it is desired that the indebtedness be refunded, and the proposed method of refunding the outstanding indebtedness. The board shall thereupon by resolution, requiring not more than one reading for its adoption, direct the city and county engineer to investigate and report to the board the amount of unpaid assessments and the property subject to the same in the improvement district, the detail of any delinquent assessments and of any unpaid penalties, whether the petitioners own real estate representing seventy-five per centum or more of the unpaid assessments in the district, the proposed method of reassessment of the lands subject to existing assessments, a new assessment roll showing the proposed new assessments, the cost of the proposed refunding scheme, and other details which may be necessary to carry into effect the proposed refunding project. Such report of the engineer shall be filed with the board. Within seven days after the filing of the engineer's report the petitioners shall deposit with the treasurer a sum sufficient to meet the cost of the refunding project as reported by the engineer.

Thereafter the board shall, by resolution requiring one reading for its adoption, propose the adoption of the suggested refunding plan specifying the outstanding indebtedness of the district, that the owners of land representing not

less than seventy-five per centum of the unpaid improvement assessments have petitioned that the outstanding indebtedness of the district be refunded, the proposed refunding plan in detail, and the proposed method of reassessment, including the minimum number of instalment payments to be proposed, and the maximum estimated unit of assessment. The resolution shall refer to and incorporate by reference the preliminary assessment roll and such other data reported by the engineer as shall be approved by the board. The resolution shall also fix the date of public hearing upon such plan, which date shall not be less than fifteen days after the first publication of notice thereof in a newspaper of general circulation in the city and county. After the adoption of the resolution, the city and county clerk shall cause a notice of the public hearing to be published as provided in section 3185, giving notice generally to all owners, lessees, and occupants of the land still under assessment in the improvement district, and to all others interested in the general detail of the proposed refunding plan, stating the time and place of the public hearing and where the resolution, preliminary assessment roll, and other data may be seen and examined prior to the hearing. Like notices shall be posted in three of the most conspicuous places in the improvement district for which the outstanding bonds are issued. Affidavits of publication, both in the newspaper and of the posting, respectively, shall be filed with the board at the hearing.

Any owner of property, the assessments on which to pay the outstanding indebtedness have not been fully discharged, may at any time prior to or at the public hearing, file in writing with the board any protest, objection or suggestion as to the proposed refunding measure, stating briefly the reason therefor, or may present the same in person orally at the public hearing. If the owners of real property representing thirty per centum or more, of the outstanding improvement assessments shall at the hearing, or prior thereto, file with the board written protests duly acknowledged by such owners against the proposed refunding project, or against any part of the plan therefor, the same shall not be made contrary to such protest. If the protest is against the adoption of any refunding plan, the same shall not be made, and the proceedings shall not be renewed within one year from the date of closing the public hearing, unless each owner protesting shall sooner withdraw his protest; provided, that any lessee of any property to be assessed under this chapter who by the express terms of his lease must pay the kind of assessments contemplated by this chapter shall be subrogated to all the rights of such owner to protest by filing with the board prior to or at the hearing a certified copy of his lease, together with a citation of the book and page of the public record of the same if it be recorded; provided, however, that any lessor of such lessee or any owner of property to be assessed, may, at any time before the closing of the public hearing, make void the protest or the right of protest of any lessee of the property on consideration of filing with the board a duly acknowledged waiver of the stipulation in the lease which requires the lessee to pay the special assessment, and a written undertaking by the lessor or owner to pay the special assessment to be made under the proposed improvement. The board shall also at the hearing sit as a board of equalization to receive complaints or objections respecting the total amounts of the proposed assessments.

Sec. 3209. Determination by supervisors. After the hearing the board shall consider any protests or suggestions which may have been made and on file and whether sufficient valid protests have been filed to compel it to abandon the proposed refunding plan. If the board still has jurisdiction to continue, it shall then proceed, determine whether or not the refunding plan shall be adopted as proposed, or adopted with modifications, and in the latter event the clerk shall be directed to give notice again of the hearing as provided in section 3208. If after such initial and further advertisement and hearing the board shall have determined to proceed with the refunding measure, it shall by ordinance requiring not more

than one reading for its adoption, promulgate the refunding measure. Should the refunding project provide for the issuance of new bonds in the improvement district, the ordinance shall provide for the form of new bonds to be issued, approve of the assessment roll, and incorporate the same by reference, which assessment roll as provided in section 3191, shall contain only the names of the property owners who have not fully paid the assessments originally provided for the payment of the outstanding improvement bonds and shall provide for the levying of new assessments in amounts sufficient to retire the refunding bonds to be issued pursuant to the terms hereof. After the final enactment of the ordinance the amounts of the several assessments so listed, advertised, or incorporated, not previously objected to, shall conclusively be presumed to be just and equitable and not in excess of the special benefits accruing or to accrue by reason of the original improvement project. Upon final passage of the ordinance as provided above, all assessments therein made shall be a lien in the same manner and to the same extent as provided in section 3195; provided, however, that in no case shall this new assessment constitute a lien on property which has been discharged from the payment of the original assessment.

Sec. 3210. Refunding bonds. Bonds issued for the refunding of the outstanding indebtedness of any improvement district shall bear the name of the improvement district for which they are issued, shall be payable to bearer and shall be in the form and issued and sold and subject to call and under all the other conditions and terms as prescribed by sections 3201 and 3205, both inclusive, except as otherwise prescribed in this chapter.

A lower rate of interest than authorized in the original issue of bonds may be prescribed and the refunding bonds may be authorized to run for a term not to exceed fifteen years from the maturity date of the outstanding bonds.

Sec. 3211. Instalments. The provisions of sections 3196 and 3197, relating respectively to the payment of the assessments in instalments and the effect of failure to pay instalments, are incorporated in this subtitle by reference; provided, that the maximum number of annual instalments in which the assessment as provided for in this subtitle may be paid shall be dependent upon the term of the bonds.

Sec. 3212. Petition by all owners. If the petition is filed and acknowledged by the owners of land representing one hundred per centum of the unpaid assessments in any improvement district, and by all lessees of any property to be assessed, who, by the express terms of their respective leases must pay the kind of assessments contemplated by this subtitle, unless the lessor of such lease shall file with the petition a duly acknowledged waiver of the stipulation in the lease which requires the lessee to pay such special assessments, and a written undertaking by the lessor or owner to pay the special assessments to be made under the proposed refunding plan, then the board upon the payment to the treasurer of the cost of the refunding plan, as estimated by the engineer, shall proceed as provided above to have a hearing on the proposed new method of assessment and the assessment roll; provided, that in case the owners of one hundred per centum as aforesaid, shall consent, in writing, to the amount and apportionment of the proposed assessments under the refunding plan, it shall be unnecessary to give the notice or to hold any of the hearings specified above and the board may immediately proceed to fix the assessment in the manner provided.

Sec. 3213. Old bonds canceled. Should the refunding project provide for the retirement of the outstanding bonds of the improvement district, the treasurer shall stamp the retired bonds "canceled" and shall keep such canceled bonds in his possession.

Sec. 3214. Obligations unimpaired. Nothing in this subtitle contained shall be construed as giving the board or any improvement district authority to impair the obligations of the improvement district under any outstanding improvement district bonds.

CHAPTER 93

PARK BOARD

Sec. 3220. Park board established. There is created a board which shall be known as the 'park board of the city and county of Honolulu'. The board shall consist of seven members, six of whom shall be appointed by the mayor with the approval of the board of supervisors. One of the appointive members shall be designated by the mayor as chairman of the board. The chairman of the recreation commission of the city and county shall be ex-officio a member of the park board.

Sec. 3221. Term of office. The term of office of the appointive members of the park board shall be five years from and after the date of their respective appointments; provided that upon the first five appointments, one member shall be appointed for the term ending December 31, 1931, one for the term ending December 31, 1932, one for the term ending December 31, 1933, one for the term ending December 31, 1934 and one for the term ending December 31, 1935, and that the first appointment of the sixth appointive member shall be for the term ending December 31, 1942.

Sec. 3222. Quorum. Four members of the park board shall constitute a quorum for the exercise of the powers or authority conferred upon it but the concurrence of at least four members shall be necessary to make any action of the park board valid.

Sec. 3223. General office. The park board shall maintain in the city of Honolulu a general office for the transaction of its business. The park board may hold meetings at any other place where the convenience of the members so requires.

Sec. 3224. Seal, rules and regulations. The park board may adopt a seal and may adopt such rules and regulations as it may consider expedient for the conduct of its business and the regulation of the matters herein committed to its charge. The park board may amend or revise such rules and regulations from time to time.

Sec. 3225. Reports. The park board shall submit to the board of supervisors in the month of January of each year a full report of its proceedings including a detailed financial report.

Sec. 3226. Secretary, salary and duties. The park board shall appoint a secretary who shall receive a salary to be fixed by it and whose duties shall be to keep a full and true record of all its proceedings, preserve at its general office all its books, documents and papers, prepare and serve such notices and other papers as may be required of him by the park board, and to perform such other duties as the park board may prescribe.

Sec. 3227. Parks in charge of park board. All public parks and public recreation grounds in the city and county, owned by it or in its possession and control, other than the Makiki Valley Park or reservation, together with all equipment, supplies, paraphernalia, and all real and personal property of whatsoever nature used in connection with the same, are transferred to and placed in charge of the park board to be maintained, managed and controlled exclusively by it; pro-

vided, however, that all personal property in the possession and control of the recreation commission of the city and county shall remain in the possession and control of the commission. The park board shall in its discretion determine the nature of all permanent improvements and in this regard shall determine the additional park property that may be acquired from time to time and the kind and nature of improvements to be constructed on the same. The park board shall also have full and complete authority over the trimming and removing of all shade trees, hedges and shrubs growing on the public streets of the district of Honolulu and the planting of the same upon such streets, and concurrently with the respective property owners shall have full and complete authority over the trimming and removing of all shade trees, hedges and shrubs growing over the public streets of such district. It shall furthermore co-operate with the recreation commission in all matters pertaining to the promotion of public recreation.

Sec. 3228. Purchases and contracts. The park board shall have power to contract for work, supplies, material or equipment and the cost of these to be met from the funds it may have on hand either by appropriation from the board of supervisors or otherwise. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman. The park board may in its discretion purchase real property, and with the approval of the board of supervisors, sell and/or exchange any real property under its control. The park board in its discretion may also sell or otherwise dispose of any building, materials, supplies or equipment under its control and no longer used or useful for its purposes. The proceeds from the sale of all real property shall be paid to the city and county and become a government realization. All documents of transfer or sale shall be executed in the name of the board and shall be signed by the chairman or acting chairman. The park board shall also have authority to contract for the importation of or to import for the purpose of keeping and to keep in captivity foreign birds for educational and scientific purposes subject to the rules and regulations of the Board of Agriculture and Forestry relative to the importation and keeping in captivity of such birds.

Sec. 3229. Appointment of employes. The park board shall appoint such employes as it may deem necessary and fix their compensation.

Sec. 3230. Gifts. The park board may receive gifts, bequests or devises of land, buildings, money and all kinds and varieties of personal property to carry out any of the purposes of this chapter and may expend and contract to expend the money thus received for the purposes for which the same is given or bequeathed.

Sec. 3231. Audit. The park board shall cause a complete audit of its financial transactions for each year to be made and submitted to the board of supervisors not later than the month of January of the following year.

Sec. 3232. Appropriations. The board of supervisors shall appropriate for the use of the park board from general funds of the city and county, a sum of not less than two hundred and fifty thousand dollars per annum to be made available in equal monthly amounts for the maintenance and development of parks and playgrounds; provided, however, that in making the foregoing appropriation, the board of supervisors may use the road fund up to and not exceeding the sum of fifty thousand dollars. The board of supervisors may from time to time in its discretion appropriate from the proper funds moneys to be used by the park board in the furtherance of its park development plans. Any unexpended balance of the appropriation made under this section remaining at the end of any calendar year shall be deducted from the amount to be appropriated for the ensuing year.

Sec. 3233. Disbursement of funds. All monies expended by the park board out of monies appropriated for its use by the board of supervisors shall be disbursed by the city and county treasurer only upon warrants issued by the city and county auditor on vouchers signed by the chairman or acting chairman.

Sec. 3234. Income from operation of parks. The park board in its discretion is authorized to lease or rent or grant concessions to any park areas or improvements that may be deemed by it in the interests of the city, and all revenues derived from concessions and leases and the proceeds from the sale of personal property shall be retained by the park board as its own realization.

Sec. 3235. Political activities prohibited. No appointive member of the park board and no employee of said board, shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office. Upon satisfactory proof of such prohibited activity of any appointive member of said board being made to the mayor and board of supervisors, or upon satisfactory proof of such prohibited activity of any such employee being made to said park board, the offender shall be summarily dismissed.

#### CHAPTER 94

#### POLICE DEPARTMENT

Sec. 3240. Organization. The police department of the city and county shall consist of a police commission, chief of police and force of police officers and such other officers, clerks and employees, as the commission may from time to time prescribe, appointed in the manner provided by sections 3240 to 3253.

Sec. 3241. Police commission. Appointment. A police commission is created to consist of five members, all of whom shall not belong to the same political party at the time of appointment. The first five members of the commission shall be appointed, and may be removed, by the governor in the manner provided by section 80 of the Organic Act. Thereafter the members shall be appointed by the mayor with the approval of the board of supervisors. No member of the commission shall be a salaried officer or employee of the Territory or any political subdivision thereof. Any member becoming a candidate for any elective office ipso facto vacates his office as such member. Each commissioner must be at the time of his appointment an elector of the city and county and must have been such for at least three years next preceding his appointment. Any commissioner appointed by the mayor may be removed from office by the mayor with the concurrence of the vote of five members of the board of supervisors. The commissioners shall serve without remuneration, but may be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The commission may employ such clerks, employees and other assistants, at such salaries, as it may find necessary.

Sec. 3242. Term of office. One commissioner shall be appointed for a term to expire June 30, 1933, one for a term to expire June 30, 1934, one for a term to expire June 30, 1935, one for a term to expire June 30, 1936, and one for a term to expire June 30, 1937. Upon the expiration of the term of each commissioner his successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term. Any vacancy in the commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term by appointment by the governor in the event such vacancy occurs among his appointees and otherwise by the mayor with the approval

of the board of supervisors.

Sec. 3243. General powers of the commission. The commission shall hold regular public meetings at a designated time and place. The commission shall elect its chairman and a majority shall constitute a quorum for the transaction of business; provided that a vote of three members shall be necessary to validate the appointment or removal of the chief of police. In the absence of the chairman the remaining members shall elect an acting chairman. The commission shall adopt such rules and regulations as it may consider necessary for the conduct of its business and regulation of the matters herein committed to its charge.

Sec. 3244. Classifications, training and promotions. The rules and regulations of the commission shall, among other things, provide for the proper training of police officers, for a system of classification of the force of police officers and a merit system having for its purpose a systematic method of promotion of police officers based upon efficiency, service and outstanding performance of official duties.

Sec. 3245. Chief of police. The commissioners shall appoint and may remove at pleasure a chief of police, who shall devote his full time to the duties of his office, and who shall be subject to the provisions of section 86. Subject to the rules and regulations prescribed by the commission; he shall have control, management and direction of all officers and employees serving under him with full power to detail any of such officers or employees to such public service as he may direct. He shall receive a salary in such amount as the commission may designate, not to exceed, however, seven thousand two hundred dollars per annum.

Sec. 3246. Police force, employees. The chief of police shall have the power to appoint police officers and other officers and employees under such rules and regulations and at such salaries as may be prescribed by the commission, but the commission may abolish any office or position in the department and revoke the salary or commission therefor, in which event, when necessary the commission shall determine which of several officers or employees in the same class shall be released; provided that country police shall receive the same salaries and other allowances as urban police of the same class. Such rules and regulations shall provide that appointments may be made in the first instance for a probationary period of not over one year. The chief of police, with the approval of the commission, may appoint and remove without cause instructors of the police who need not have any residential qualifications. Except as otherwise provided, all acts or duties which may be performed by the chief of police may in like manner and with like effect be performed by any police officer under him.

Sec. 3247. Powers and duties of chief of police. The chief of police shall have concurrently with the sheriff of the city and county the powers and duties which the sheriff had on February 1, 1932, except such as are enumerated in sections 259, 750, 2431, 2504, 3105-3108, 3723, 4021, 4140, 4248, 4295, 4324, 4582, 5544, 5551, 7790, 7796 and chapters 85, 117, 126. The chief of police shall not have the care, custody or control of Honolulu jail.

There are transferred to the chief of police from the sheriff of the city and county the powers and duties of the sheriff enumerated in sections 2157, 2457-2461, 2529 and chapter 83, part 1.

He shall at all times diligently and faithfully discharge his duties and enforce all laws of the Territory and all ordinances of the city and county for the preservation of peace and good order, and the protection of the rights and

property of all persons. He shall consult and advise with the commission, and act with its approval on all matters pertaining to the police department not herein specifically provided for, and shall make such reports from time to time as the commission shall require, and shall annually make a report to the commission of the state of affairs and condition of the police department.

Sec. 3248. Specific duties. The chief of police shall have the following duties:

1. To preserve the public peace and prevent and suppress affrays, riots and insurrections;

2. To arrest and take before the nearest qualified magistrate for examination all persons who have committed or attempted to commit a public offense and through any officer designated by him to prosecute the same under the direction of the public prosecutor;

3. To serve all process and notices in criminal proceedings;

4. In any emergency requiring the same to command the aid of such inhabitants of the city and county as he may think necessary in the execution of his duties;

5. To exercise general police supervision and control over all pawnbrokers, peddlers, junk shop keepers, auctioneers and dealers in second-hand merchandise; to examine the books and premises of any such persons when in search of property feloniously obtained or of evidence of the commission of crime.

Sec. 3249. Service of process. The police department may at the request of the sheriff of the city and county serve processes and notices which are permitted by law to be served by police officers in the manner prescribed by law. There shall be indorsed on every process or notice the year, month, day, hour and minute of reception, and whenever requested there shall be issued to the person delivering the same, on payment of any fees required by law, a receipt showing the name of the parties, title of paper, when received and amount paid. The officer making service shall certify under his hand upon every process or notice served by him the manner and time of service, or if he fails to make service the reason of his failure, and shall return such process or notice without delay.

Sec. 3250. Suspension; removal; political activities prohibited. The removal and suspension of any officer or employee under the chief of police shall be in the manner provided by the rules and regulations of the commission; provided that the chief of police shall have the absolute right to suspend for a period or periods, not exceeding in the aggregate sixty days in any calendar year, any officer or employee under him for incompetence, neglect of duty, drunkenness or failure to obey orders given him by proper authority, or for any other just cause and such suspension shall be final and without appeal or review; provided further, that any such officer or employee removed or suspended for a period exceeding, or which, added to any previous suspensions exceeds, sixty days in any calendar year, may, within ten days from the date of the service upon him of a certified copy of the order so removing or suspending him, or, in case he cannot be found, within twelve days from the mailing of such certified copy by registered mail addressed to him at his last known address, apply to the commission for a review of the case; the commission shall thereupon have power, in its discretion, either to entertain or

to refuse to entertain such appeal; if it entertains such appeal, it may affirm, set aside, amend or modify such order; or make such further order, as in its judgment the facts shall warrant. The decision of the commission refusing to entertain an appeal, or its order upon any appeal allowed, shall be final. No officer or employee shall receive any compensation for the period of any suspension, unless after entertaining an appeal the commission shall so order. This section shall not apply to any appointment made for a probationary period. No member of the police department shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office. Upon satisfactory proof of such prohibited activity being made to the appointing power by whom the offending member was appointed, the offending member shall be summarily dismissed from the police department.

Sec. 3251. Appropriations. The board of supervisors, upon request of the commission, shall appropriate from time to time, for the use of the police department sums aggregating not less than five hundred thousand dollars per annum from such funds as are available by law for such purpose; provided, however, that the board may appropriate for such purpose up to one hundred thousand dollars per annum from the road fund created by section 2158. The board of supervisors may from time to time in its discretion appropriate from the proper funds additional moneys to be used by the police department.

Sec. 3252. Disbursement of funds. All moneys appropriated for the police department shall be disbursed by the city and county treasurer only upon warrants issued by the auditor on vouchers signed by the chairman or acting chairman of the commission or such officer or employee as the commission may authorize.

Sec. 3253. Hearings by commission. In all investigations made by the commission and in all proceedings before it relative to the police department or the officers or employees thereof the commission and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the commission or any member thereof or of any subpoena issued by it or him or of the refusal of any witness to testify to any matters regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the commission or a member thereof, to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid out of any appropriations available for the use of the police department.

Sec. 3254. Quarters. The board of supervisors shall make available to the police department sufficient and proper quarters in the police station in Honolulu and in each district in the city and county for the use of the police department and shall maintain and keep the same in repair.

Sec. 3255. Pensions. Any person employed in the police force, as that term is used in chapter 259, part 3, of the city and county immediately prior to February 1, 1932, and not continued in employment by the chief of police or the commission and who would have been entitled to a pension under the terms of said chapter if dismissed from service without cause immediately prior to February 1, 1932, shall be entitled to receive such pension as he would have been entitled to receive had he been so dismissed; and all persons who are members of the police force immediately prior to February 1, 1932, and are continued in employment in the police department shall have all the rights and benefits under the terms of chapter 259, part 3, or of chapter 260, as if this chapter had not been enacted.

WATER SUPPLY, BOARD OF  
(Control of Artesian Wells).  
Board of Water Supply

Sec. 3260. Definitions. Wherever in this subtitle the following words occur, they shall be held to have the force and meaning herein set forth, unless the context clearly indicates otherwise:

"Board" shall mean the board of water supply of the city and county of Honolulu, defined and created by this subtitle.

"Water works" or "Honolulu water works" shall mean all of the property comprising the water works and water system supplying the district of Honolulu with water and water power, held and administered on April 27, 1929, under the name of the Honolulu water and sewer department and the electric light department, and any property or equipment added thereto.

"Honolulu water and sewer department" shall mean and include any bureau, division or subdivision thereof of the department of public works of the city and county, appertaining to or dealing with the supplying of water in the district of Honolulu including those known on April 27, 1929, as "The Bureau of Water Revenue", "The Mapping and Metering Division", and that portion of "The Bureau of Water Supply and Sewers" pertaining to the supply of water only.

"Honolulu" or "District of Honolulu" shall mean all of that portion of the island of Oahu included in the judicial, educational and taxation district, defined by law as the "District of Honolulu" or "Honolulu District".

"Board of Supervisors" shall mean the board of supervisors of the city and county of Honolulu, or its successors, or the corresponding legislative body of the successors of the city and county of Honolulu.

Sec. 3261. Board of water supply. A board of water supply is created, to consist of seven members, of whom five shall be appointive members and be appointed as hereinafter provided, and of whom two shall always be the persons who for the time being shall be the legal incumbents of the offices of the superintendent of public works of the Territory and the chief engineer of the department of public works of the city and county of Honolulu, whose duty it shall be to manage, control and operate the water system and properties of the city and county, for the supplying of water to the public within the district of Honolulu; and to collect, receive, expend and account for all sums of money derived from the operation thereof, and all other moneys provided for the use or benefit of the water system, as in this subtitle provided. Without limitation as to the generality of the foregoing, such properties shall include all those properties described and included in a resolution entitled "Transfer of Honolulu Water Works", dated February 9, 1922, and signed by the governor, and in addition thereto, all properties acquired, held or used for or in connection with water works or supply for the district of Honolulu, since July 1, 1914, and the following:

1. The property bounded by the property of George S. Sampaio, and by Lisbon, Borotania and Alapai streets and containing an area of about 79,500 square feet.

2. All the property in Nuuanu Valley owned by the Territory and bounded by the properties of Mary C. Afong, the Oahu Country Club, James P. Howatt and

Theodoro A. Cooke, and by Nuuanu street, and used on April 27, 1929, for water supply purposes and the generation and distribution of electricity on April 27, 1929; provided, that the electric power station in Nuuanu Valley may be used by the city and county until its abandonment or the completion of a filtration plant in such valley, whichever shall first occur.

3. All extensions, additions, increases, improvements and betterments in connection with such water system; all water and water rights for the purpose of supplying water; and all works, equipment, supplies and general paraphernalia incidental to the operation and administration of such water system.

All of the powers and functions provided to be exercised and performed by the board of supervisors in relation to the Honolulu Water Works by Act 138, Session Laws 1913, as amended, and by the Honolulu sewer and water commission, or by the board of supervisors by Act 150, Session Laws 1925, Acts 40 and 222 of the Session Laws of 1927, and acts amendatory thereof, shall devolve upon and be exercised and performed by the board of water supply, except as in this subtitle otherwise provided.

Sec. 3262. Appointment. The first five appointive members of the board shall be appointed, and may be removed, by the governor in the manner provided by section 80 of the Organic Act. One of the members shall be designated by the governor as chairman of the board.

Thereafter, the appointive members of the board shall be appointed by the mayor, with the approval of the board of supervisors. And upon the expiration of the term of office of the chairman or upon his retirement, the mayor, with the approval of the board of supervisors, shall designate another member to fill the office of chairman of the board. The members of the board shall serve without pay. Each member of the board must be, at the time of his appointment, an elector of the city and county and must have been such for at least five years next preceding his appointment. Any member of the board may be removed from office in the same manner as the mayor.

The term of office of the appointive members of the board shall be five years from and after the date of their respective appointments; provided, that upon the first appointments one of the members shall be appointed for a term ending June 30, 1931; one for a term ending June 30, 1932; one for a term ending June 30, 1933; one for a term ending June 30, 1934; and one for a term ending June 30, 1935. Any vacancy occurring on the board, from any cause, shall be filled by appointment; provided, the one appointed to fill such vacancy on the board shall serve only for the unexpired term of the person whom he succeeds. Officers and employees of the Territory or of the city and county shall not be eligible for appointive membership on the board. Any appointive member of the board who shall become a candidate for election to any public office or who shall engage in partisan political activities other than the exercise of his right to vote ipso facto vacates his office as such member.

Sec. 3263. Organization and meetings. The board shall hold regular public meetings at a designated time and place. The board may adopt such rules and regulations as it may consider necessary for the conduct of its business and the regulation of the matters herein committed to its charge. A majority of the board shall constitute a quorum for the transaction of business; provided, that the affirmative vote of at least three members of the board shall be necessary to validate any action of the board.

Sec. 3264. General management:

1. The board shall appoint a manager, who shall have such qualifications as the board may deem necessary, and who shall have full power to administer the affairs of the water works, subject to the direction and approval of the board. He shall be known as the manager of the board of water supply, city and county of Honolulu, and shall serve at the pleasure of the board.

2. The manager shall, subject to the control of the board, have power to appoint and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the board.

3. The salaries, wages or other compensation of all persons employed by the board, or engaged in work under its direction shall be fixed by the manager, with the approval of the board; provided, that the compensation of the manager shall be fixed by the board.

4. The board may require a bond in such amount as it shall deem proper from any employee, which bond shall be duly conditioned for the faithful performance of the duties of the employee, and the board may provide that the premium on the bond be paid out of the revenues of the water works.

5. No employee appointed under or by authority of the board shall, aside from exercising the right to vote, engage in partisan political activities or support, advocate or aid in the election or the defeat of any candidate for public office. Any such employee violating the provisions of this subsection shall be summarily dismissed from his employment.

Sec. 3265. Legal department.

The city and county attorney shall be the legal adviser of the board and shall prosecute and defend, as the board may require, any and all actions and proceedings involving matters under its jurisdiction. He shall have authority, with the prior approval of the board, to compromise, settle or dismiss any litigation or proceedings which may be pending for, or on behalf of or against the board relative to any matter or property under its jurisdiction.

He shall appoint and detail to the board such attorneys as the board may deem necessary to conduct its legal work, and the compensation of such attorneys so detailed shall be fixed by the board, and shall be paid from the revenues of the water works. The attorneys, when so appointed, shall be deputies of the city and county attorney, and shall be in addition to the deputies and assistants allowed to him by law.

The board may employ an attorney to act as its legal adviser and to represent it in any litigation to which it is a party.

Sec. 3266. Transfer of funds; obligations.

All moneys in the city and county treasury belonging to any fund of the water works system for the district of Honolulu, upon July 1, 1929, and all moneys thereafter collected belonging to any such fund, including those belonging to the "Water Works Working Fund" or the "Water Works Department" shall, by the treasurer, be placed to the credit of the board.

All outstanding obligations in connection with the operation of the water system shall be paid by the board out of water works funds.

Sec. 3267. Purchases and contracts. The board shall have power to contract for work, supplies, materials, or equipment when the cost of those can be met from the revenues or reserves of the water works, or from the proceeds of bonds authorized for the water works. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman of the board.

The board may sell or otherwise dispose of any buildings, materials, supplies, or equipment under its control when no longer used or useful for its purposes, and the proceeds thereof shall be placed to the credit of the board. All documents of transfer shall be executed in the name of the board and shall be signed by the chairman or acting chairman thereof.

Sec. 3268. Construction, additions, extensions, increases, betterments and improvements. The board shall locate and determine the character and type of all construction and additions, extensions, increases, betterments and improvements to the water works, and shall determine the policy for construction or the making of additions, extensions, increases, betterments and improvements out of public funds under its jurisdiction.

Sec. 3269. Accounts, revenues and expenditures. The board shall maintain proper accounts in such manner as to show the true and complete financial status and the results of management and operation. The accounts shall be kept so as to show, among other things, all costs of maintenance, extension and improvement, all operating expenses of every description, all expenses of the board, and the amounts paid or set aside for depreciation, insurance, pensions, interest, sinking fund and reserves.

The accounts and financial status of the board shall be examined annually by a certified public accountant, who shall report to the city and county auditor and the board the result of such examination, and whose fees shall be paid as an expense of the board. All accounts of the board shall be open to the inspection of the city and county auditor.

Sec. 3270. Reserve fund. The board may provide for the accumulation of a fund for the purpose of financial major replacements, or extensions and additions, the average estimated annual increment to which, for a period of ten years, shall not exceed fifteen per centum of the gross revenue of the board in any fiscal year.

Sec. 3271. Bond sales. The treasurer of the city and county shall, when so directed by the board, sell such bonds as may be authorized for the acquisition, construction, replacement, extension or completion of the water works; provided, that such sale shall otherwise be conducted in accordance with the procedure specified by the law for the sale of such bonds. The proceeds from such sales shall be kept by the treasurer in a separate fund to be used only for the purposes for which such bonds were sold.

Sec. 3272. Provisions for payment of bonds, etc. Whenever there shall be outstanding any bonds of the city and county representing moneys heretofore or hereafter expended upon the water works system, the funds in the treasury to the credit of the board shall be drawn upon by the treasurer to the extent necessary from time to time to provide for payment of such bonds and the interest thereon according to the tenor and terms thereof, the moneys so drawn to be placed to the credit of the appropriate sinking fund and used for such purpose; provided, that in respect of the bonds issued and outstanding under the provisions of Act 150, Session

Laws 1925, as amended by Act 40, Session Laws 1927, the whole amount chargeable against the board on account of the sinking fund as set up by Act 192, Session Laws 1927, shall be proportionate to the amount expended from the proceeds of such bonds upon the water works system when finally determined, in accordance with the provisions of Act 150, Session Laws 1925, as amended, and credit shall be allowed on account thereof to the extent that moneys derived from the water works shall already have been carried to the sinking fund; and provided, further, that the requirements for interest and sinking fund on the sum of \$1, 142,031.00 required to be paid to the Territory by Act 138, Session Laws 1913, as amended, (which sum is the proportion of the total indebtedness of \$1,494,671.33 provided for by Act 138, Session Laws 1913, as amended, allocated to the water works) shall be accounted as an obligation to be met out of funds of the water works system and the treasurer shall similarly provide for the same in accordance with Act 138, Session Laws 1913, as amended, out of the moneys in the treasury to the credit of the board.

Sec. 3273. Operating expenses, reserves and appropriations. All receipts of the board, other than from the sale of bonds, shall be paid daily into the city and county treasury and maintained in a special fund. The board may make appropriations and allowances from the fund for the following purposes, viz: (a) For the payment of the operating and maintenance expenses of the water works; (b) for repairs, replacements, additions and extensions; (c) for accident reserve, pension charges and compensation insurance; (d) for payment of interest and sinking fund on all bonds issued for the acquisition or construction of the water works and extensions thereto; including interest and sinking fund on the sum of \$1,142,031.00 (which sum is the proportion of the total indebtedness of \$1,494,671.33 provided for under the provisions of Act 138, Session Laws 1913, as amended, allocated to the water works); interest and sinking fund on all bonds authorized by Act 205, Session Laws 1921, and such proportion of the bonds issued under the provisions of Act 150, Session Laws 1925, as amended by Act 40, Session Laws 1927, as have been expended upon the water works, the amount of such proportion or expenditure to be determined in accordance with the provisions of Act 150, Session Laws 1925, as amended; (e) for reserve fund under section 3270.

Sec. 3274. Disbursement of funds. All moneys expended by the board pursuant to the provisions of this subtitle shall be disbursed by the treasurer only upon warrants issued by the auditor on vouchers signed by the chairman or acting chairman of the board.

Sec. 3275. Rates. The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water service so that the revenues derived therefrom shall be sufficient to make the water works self-supporting and to meet all expenditures included under items (a), (b), (c), (d) and (e) of Section 3273; and any other expenditures which may be occasioned, either directly or indirectly, in supplying water in the District of Honolulu; to collect and by appropriate means, including the discontinuance of service to delinquent consumers, or civil action in the name of the board, enforce the collection of such rates and charges; and to adjust and settle all complaints, claims and accounts of consumers or the public. All water furnished to the city and county or any department thereof, or to the territory or any department thereof, shall be charged to the respective departments and collected at the regular rates established by the board. There shall be no free water except as authorized by the legislature; provided, however, that the city and county attorney, on behalf of the city and county of Honolulu and the board of water supply, by its attorney, shall forthwith proceed under the terms of chapter 118, Revised Laws of Hawaii 1935, to have determined by the courts of

this Territory the liability, if any, of the city and county of Honolulu for water or water service furnished or to be furnished for fire protection; and for that purpose jurisdiction is hereby conferred upon the courts to determine such question of liability in the manner provided by said chapter for the declaring of the rights of parties litigating thereunder; it being provided further, however, that the city and county of Honolulu shall not be required to pay any amount to said board for water or water service furnished for the purpose of fire protection previous to July 1, 1937.

Sec. 3276. Acquisition of lands. The board may, in the name of the city and county, acquire and take by purchase, lease or otherwise, all property situated within the limits of the city and county that it may determine necessary for the construction, maintenance, extension or operation of the works under its jurisdiction and control.

Sec. 3277. Agreements for joint use of utilities. The board shall have full power and authority to enter into such arrangements and agreements as it shall deem proper for the joint use with any other person owning the same, or having jurisdiction of the same, of poles, conduits, towers, stations, aqueducts and reservoirs for the operation of any of the properties under its jurisdiction.

Sec. 3278. Pensions. All employees of the board shall be entitled to the benefits of the provisions of chapter 260 and for the purpose of enjoying such benefits, all employees of the board shall be deemed to be public employees of the city and county, and all amounts to be contributed to said fund to equal the amounts contributed by such employees thereto shall be paid from the funds under control of the board.

Sec. 3279. Special deposits. At any time that there are on deposit in the office of the treasurer funds belonging to the board, in an amount greater than is necessary for the immediate needs of the board, the treasurer shall, upon the direction of the board, offer so much of such funds as the board shall direct for deposit in such bank or banks as shall accept the same. The deposits shall be made in like manner and upon security as provided by chapter 74, with respect to territorial funds, and as to funds so deposited the board, the treasurer and the chairman of the board shall have the same rights, powers and duties as devolve upon the Territory, its treasurer and the governor, respectively, concerning territorial funds so deposited. All interest received by the treasurer upon the funds so deposited shall be credited to the board. All interest from all other moneys of the board on deposit in any bank shall likewise be credited to the board.

Sec. 3280. Name and service of process; claims against board. The board created herein shall be known as the "Board of Water Supply, City and County of Honolulu"; and may sue and be sued under such name. Service of process in all matters affecting the board, or any property under its jurisdiction, may be made by service upon any member of the board or on its manager; provided, however, that any action commenced or prosecuted for the recovery of damages for any injury to any person or property by reason of the negligence of the board or of any of its agents, servants or employees, shall be commenced and prosecuted against the board. And no action shall be maintained for the recovery of any such damage, unless a written statement verified by the oath of the claimant, setting forth the nature and items of the claim, and the time and place where the alleged injury may have occurred, or where the damage was sustained, shall have been filed with the board within six months after the date of the sustaining of the injury or damage; otherwise there shall be no recovery on the claim.

## ARTESIAN WELLS

Sec. 3281. Surveys, investigations. The board of water supply, city and county of Honolulu, is vested with full power and authority to survey and investigate the location and sources of supply of water within the district of Honolulu, both surface and underground, and any surface waters outside of the district in the island of Oahu, and to determine or estimate the amounts available for use and the maximum productivity of such sources thereof.

Sec. 3282. Records, uses. It shall be the duty of the board to survey, study and compile records, statistics and estimates relating to the amounts of water required for current and reasonably prospective uses in the district, including public, domestic, industrial, agricultural and other practicable uses, and relating to water resources on the island of Oahu which, in the judgment of the board, may, with reasonable regard to cost of development or acquisition and practicable utilization, be made available for such uses; and to devise and recommend to the legislature and the board of supervisors of the city and county from time to time prospective ways and means by which such water may be conserved and distributed for such uses, with estimates of costs in connection therewith. For any of such purposes, all records and information in the control or within the knowledge of any department or officer of the Territory or the city and county shall be at the disposal of the board. The board shall keep a record of its proceedings and decisions had or made under this chapter.

Sec. 3283. Data respecting existing wells. Every owner or user of any artesian well in the district shall, upon demand of the board, disclose the precise location of such well, and all other facts or information within his knowledge or possession relating to such well, including a particular statement of the precise manner in which such well is being used or operated, and the volume of water being drawn or flowing therefrom, and the method and means of control thereof.

Sec. 3284. Relief from liability for well. Any person owning an artesian well in the district may relieve himself of further liability therefor or in connection therewith by granting to the city and county the right to permanently seal his well, in which case the responsibility therefor shall be accepted by the city and county and the well shall then be sealed.

Sec. 3285. Permit for new wells. It shall be unlawful for any person to sink, bore, drill or drive any new artesian well in the district or to reopen any artesian well which has been unused for two years or more, except under and pursuant to the terms and conditions of a permit therefor from the board. Application for such permit shall be made to the board, in writing, signed and verified by the party intending to operate under same, setting forth the name and post office address of the applicant, a description of the location of the well proposed to be bored or reopened, which location shall thereafter be exactly marked upon the ground, if so requested by the board, the nature and extent of the proposed use of the water, and shall be accompanied by the specifications for the proposed work, including the casing, capping, equipping and means of control and operation of such well. The board may charge a fee of one hundred dollars for any permit issued hereunder. All such fees shall be deposited by the board with the treasurer and are appropriated for the use of the board.

Sec. 3286. Conditions of permit. As a condition precedent to granting any permit to sink, drill or reopen any artesian well, the board may require the applicant to sign an agreement to perform such work in such manner as the board

shall prescribe, and thereafter to operate and maintain control of the well according to the provisions of this subtitle and under such rules and regulations of the board as shall from time to time be in force, and may also require the applicant to give a bond or other form of indemnity satisfactory to the board to insure compliance with such provisions, rules and regulations. In the event of any failure in such compliance, the board shall have power either to seal the well at the cost of the bond, or do such work as may be necessary to put the same in proper condition at like cost.

Sec. 3287. Suspension and revocation of permit. Whenever it shall appear that any well, works or use of water covered by any permit issued by the board is being unlawfully or improperly maintained or operated or that any unlawful or improper condition or use thereof exists, the board may notify the offending or delinquent person to appear before it at a time and place to be stated in the notice, then and there to show cause why such permit should not be suspended or revoked. The notice may be served by delivery to the person, or by delivery thereof at his last known place of business and residence, or by mail addressed to his last known post office address, not less than ten days nor more than thirty days before the date assigned for the hearing. For cause satisfactory to the board, any permit may be suspended or revoked, and any unauthorized use of such well thereafter shall be unlawful.

Sec. 3288. Powers of board. The board shall also have power:

1. To investigate all uses of water within the district of Honolulu and to estimate the quantity of water reasonably required for any useful or beneficial purpose, according to reasonable standards in cases of like kind;

2. To examine, inspect and ascertain the manner and extent of use or other disposition of any water in the district by any person and irrespective of ownership thereof, and any machinery, pumps, or other plant or equipment and conduits, pipes, or other means used for the elevation, transmission or distribution of water, upon either public or private property, and in the case of artesian wells, to ascertain, as far as practicable, the depth thereof, depth and thickness of the different strata penetrated, pressure, quantity, quality or chemical composition of the water, and the general conditions surrounding the same, including encasement, capping and other equipment or means of control thereof;

3. To prescribe and enforce such rules and regulations as may in its judgment be necessary or advisable in connection with any matters within the scope of its duties or powers, including (a) the prevention of waste and pollution of water, (b) the manner in which new artesian wells in the district may be bored, drilled or driven, encased and capped, (c) the manner in which artesian wells generally shall be maintained, controlled and operated to prevent waste of water from any artesian basin or area or the impairment of its potability, (d) the limitation to beneficial uses of all water, (e) in times of shortage or threatened shortage of water, or of danger to potability of the water of any artesian basin or area by overdraft on such basin, the restriction of the drawing of water in all wells supplied from such basin on a basis proportionate to the proper and beneficial uses served by them respectively, (f) and other matters having for their object the proper conservation and beneficial use of the water resources available for the district.

4. For the purpose of exercising any power or authority by this subtitle vested in or conferred upon the board, any member or any authorized representative or employee of the board may enter upon any public or private property, at

any reasonable time, without warrant, doing no unnecessary injury thereto;

5. To subpoena and compel the attendance of witnesses to any investigation or proceeding before the board, and the production of books, papers and other evidence pertinent to any such matter; to administer oaths and examine witnesses under oath. In the event of failure of any person to obey such subpoena or to testify thereunder before the board, such person may be punished as for contempt of the circuit court, on application therefor by the board to the court.

Sec. 3289. Rules and regulations. The board shall also have power from time to time, subject to the approval of the governor, to make, alter, amend and repeal such rules and regulations, not inconsistent with law, as it may deem necessary for the furtherance of any of the purposes of this subtitle or the appropriate exercise of any of its powers; and all such rules and regulations when approved by the governor and published three times in any newspaper of general circulation in the district, shall have the force of law; and any violation thereof shall be a misdemeanor and punished as hereinafter provided.

Sec. 3290. Appeal to supreme court. Any order of the board refusing any permit or suspending or revoking any permit theretofore granted, shall be subject to an appeal therefrom directly to the supreme court, which appeal shall be governed by the practice in suits in equity. The court shall have power to review and to affirm, modify or reverse any decision or order of the board so appealed from, in any matter of law or fact. Such appeal shall be taken within ten days after service of the board's order complained of, by filing notice of appeal with the clerk of the court and serving a copy thereof upon the board, stating the grounds therefor.

Sec. 3291. Penalties. Any person who shall violate any provision of this subtitle or any rule or regulation made and promulgated by the board by authority of this subtitle, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine not to exceed fifty dollars, except that in cases where such offense shall be of a continuing nature each day's continuance of the same, after written notice from the board to remedy the same, shall constitute a separate offense.

Sec. 2300. Purposes for taking property. Each county shall have the following specific powers: To take private property for the purpose of establishing, laying out, extending and widening streets, avenues, boulevards, alleys and other public highways and roads; for pumping stations, water works, reservoirs, wells, schools, hospitals, jails, court houses, police and fire stations, city halls, office and other public buildings, cemeteries, parks, playgrounds and public squares, land from which to obtain earth, gravel, stones and other material for the construction of roads and other public works, and for rights-of-way for drains, sewers, pipe lines, aqueducts, and other conduits for distributing water to the public; and also to take such excess over that needed for such public use or public improvement in cases where small remnants would otherwise be left or where other justifiable cause necessitates such taking to protect and preserve the contemplated improvement or public policy demands such taking in connection with such improvement, and to sell or lease such excess property with such restrictions as may be dictated by considerations of public policy in order to protect and preserve such improvement.

Sec. 2301. Proceedings according to sections 55-68. The proceedings to be taken on behalf of the county for the condemnation of property as provided in this chapter, shall be taken and had in accordance with sections 55-68, both inclusive.

Sec. 2302. "County" includes city and county of Honolulu. Wherever in this chapter the word "county" is used, it shall be construed to include the city and county of Honolulu.

Sec. 2307 A. Finding and declaration of necessity. It is hereby declared that unsanitary or unsafe dwelling accommodations exist in various areas of the Territory of Hawaii and that consequently many persons of low income are forced to reside in such dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the inhabitants of the Territory and impair economic values; that the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which private property may be acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination.

Sec. 2307 B. Housing project. The term "housing project" whenever used in this Act shall mean any undertaking (a) to demolish, clear, remove, alter or repair unsafe or unsanitary housing or (b) to provide dwelling accommodations for persons of low income or (c) to do both, and said term may also include such building, equipment, lands and grounds for recreational or social assemblies for educational, health or welfare purposes, and such necessary or convenient utilities as are designed primarily for use in connection with such dwelling accommodations.

Sec. 2307 C. Eminent domain for housing projects. The United States of America, and any corporation, which is an agency of the United States of America

or which is authorized to expend Federal funds, shall have the right to acquire by eminent domain any real property, including improvements and fixtures thereon, which it may deem necessary or convenient for a housing project being constructed, operated or aided by it or the United States of America or any other agency or instrumentality thereof. Any corporation borrowing money, or receiving other financial assistance from the United States of America or any agency or instrumentality thereof for the purpose of financing the construction or operation of any housing project or projects, the operation of which will be subject to public supervision or regulation, shall have the right to acquire by eminent domain any real property, including fixtures and improvements thereon, which it may deem necessary or convenient for such project. A housing project shall be deemed to be subject to public supervision or regulation within the meaning of this Act if the rents to be charged by it are in any way subject to the supervision, regulation or approval of the United States of America or any agency or instrumentality thereof, or of the Territory or any of its political subdivisions or agencies, whether such right to supervise, regulate or approve be by virtue of any law, statute, contract or otherwise.

The United States of America, or any corporation described or mentioned in the foregoing paragraph upon the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use, may exercise the power of eminent domain in the same manner and with the same procedure as is provided by Sections 50 to 68, both inclusive, of the Revised Laws of Hawaii 1935, and otherwise in accordance with all applicable provisions of the General Laws of the Territory.

Sec. 2307 D. Separability clause. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

CHAPTER 78.

GENERAL PROVISIONS

Sec. 2310. Bonds of county and city and county officers; form. Every bond required to be given by any officer, deputy, assistant, clerk, or employee, in any department, bureau, office or service, of any county or city and county, or municipality, shall be made payable to the county, or city and county, or municipality, as the case may be, and shall be substantially in the following form:

KNOW ALL MEN BY THESE PRESENTS: That we (name of obligor) of (place of residence) as principal, and (names of sureties) of (place or places of residence) as sureties, are held and firmly bound unto the (name of county, city and county, or municipality) in the sum of..... dollars (\$.....), lawful money of the United States of America, for the payment of which, well and truly to be made, we do firmly bind ourselves, our heirs, executors and administrators jointly and severally to these presents.

Signed at....., this..... day of.....19.....

The condition of this obligation is such that

WHEREAS, the above bounden (name of obligor) was on the..... day of

....., 19....., appointed or employed as (name of office, appointment, employment or position ) of the (name of county, city and county, or municipality).

NOW THEREFORE, if the said (name of officer, appointee or employee) shall faithfully perform all the duties of his office, appointment, position or employment which are now or may hereafter be required, prescribed or defined by law or by any departmental rule or regulation made under the express or implied authority of any statute, or by any order, direction or command of the head of the department, bureau, office or service in which said obligor is engaged or employed, and all duties and acts undertaken, assumed or performed by said obligor by virtue or color of his office, appointment, employment or position, and shall safely keep, promptly pay over to those legally entitled thereto, and faithfully account for all moneys which may come into his possession or control by reason of his undertaking, assuming, performing or doing any of the aforesaid duties or acts, then this obligation shall be void; otherwise it shall be and remain in full force and virtue and may be enforced in any manner or by any proceedings authorized by law.

(Principal)  
(Surety)  
(Surety)

Approved:

(Signature)

When the surety on any such bond is a corporation, this form, with appropriate changes, shall be used.

Sec. 2311. Sureties, number and qualifications of. There shall be at least two sureties on each of such bonds, whose qualification and sufficiency shall be approved by the officer or officers whose duty it is to approve such bond, (except that the sufficiency of the bonds of the members of the several boards of supervisors and the mayor of the city and county of Honolulu shall be approved by a judge of the circuit court having jurisdiction over or within the county or city and county, as the case may be,) and no bond shall be approved unless each of the sureties thereon is a resident freeholder within the Territory, and unless all the sureties thereon (in the aggregate) are worth in real property situate in the Territory the amount of such bond over and above all sums for which such sureties are liable; provided, however, that a corporation, qualified under section 160, may be accepted as surety on such bonds.

Sec. 2312. Extent of liability. Every bond required or given under the authority of this chapter shall be construed to cover all duties now or hereafter required, prescribed, or defined by any law, or by the appointment or employment of the obligor, and all duties required of him by the terms, provisions, or conditions of any law, or by his appointment, employment or position, or by any departmental rule or regulation, or by any direction, order or command of the head of the department, office, bureau or service in question, and all duties and acts undertaken, assumed or performed by the obligor, by virtue or color of his office, appointment or employment, and all such duties and acts shall be considered to have been undertaken, assumed, performed or done as the case may be by specific requirement of statute, whether the obligor undertaking, assuming, performing or doing any such duty or act, is designated, described, named in or recognized by any

statute or not. No surety shall be released or relieved from liability upon any such bond by reason of the fact that the office, appointment, employment or position, held, occupied, assumed, or undertaken by the obligor is not specifically named in or recognized by any statute, or by reason of the fact that any or all of the duties or acts undertaken, assumed or performed by the obligor by virtue or color of his office, appointment, employment or position are not specifically required, defined or prescribed by any statute or departmental rule or regulation made under the express or implied authority of any statute.

No bond shall be held void for any formal defects therein.

#### REPORTS BY AUDITOR

Sec. 2313. Report by auditor. It shall be the duty of the auditor of the city and county and of each of the counties to prepare and submit to the board of supervisors, transmit to the auditor of the territory, and publish in a newspaper of general circulation in the county or city and county, immediately following the close of each year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a statement showing the balance in each fund at the beginning of the year, plus the receipts minus the disbursements, and the balance on hand at the close of the year after deducting outstanding warrants and vouchers.

He may publish totals of expenses made by administrative departments for administration and executive purposes.

#### NOTARIAL POWERS

Sec. 2314. Certain notarial powers conferred upon municipal and county officers. Wherever by law any affidavit under oath or any statement or other document to be acknowledged is required to be filed with the sheriff, chief of police, treasurer, clerk, or board of supervisors of any county or city and county as a condition to the granting of any license or the performance of any act by any person, or by any county or city and county officer, the sheriff, chief of police, treasurer or clerk, their deputy or deputies, of any such county or city and county, are authorized and directed to take any such oath or acknowledgment, free of charge, keeping records thereof as required by law of notaries public, provided, that nothing herein shall prevent any person desiring so to do from making any such oath or acknowledgment before any duly authorized notary public, subject to his legal fees therefor.

#### EXPENDITURES BY OFFICERS, ETC.

Sec. 2315. Excessive expenditures, penalty. No board of supervisors or other board, committee, department, bureau, officer or employee of any county or city and county shall expend, or aid or participate in expending, during any period of time for any purpose, any sum in the absence of an appropriation for such purpose for such period, or any sum in excess of an appropriation, if any, for such purpose for such period, or incur, authorize or contract, or aid or participate in incurring, authorizing or contracting, during any fiscal year, liabilities or obligations, whether payable during such fiscal year or not, for any or all purposes, in excess of the amount of money available for such purposes for such county or city and county during such year, and any person who shall violate any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both fine and imprisonment.

AN ACT RELATING TO THE PAYMENTS REQUIRED TO BE  
MADE BY THE CITY AND COUNTY OF HONOLULU UNDER CON-  
TRACT ENTERED INTO IN ACCORDANCE WITH THE PROVI-  
SIONS OF ACT 38, SECOND SPECIAL SESSION 1932.

WHEREAS, in purported compliance with the provisions of Act 38, Second Special Session 1932, the board of supervisors of the city and county of Honolulu entered into a contract for a period not in excess of ten (10) years for the leasing with an option to purchase of a police flash light system and additional police call box and/or fire alarm circuits and equipment, such contract being dated June 24, 1932 and executed by and between the city and county of Honolulu and The Gamewell Company; and

WHEREAS, it was provided in said Act 38, Second Special Session 1932, that the permanent improvement fund of the city and county of Honolulu, could be used for payments required to be made under said contract; and

WHEREAS, by Act 100, Session Laws 1933, approved April 26, 1933, the requirement of a permanent improvement fund for the city and county of Honolulu was eliminated, and as a result of the enactment thereof some ambiguity has arisen as to the source of payment for said contract; and

WHEREAS, said The Gamewell Company completed the construction of all work required by said contract and said work and equipment has been exclusively controlled and used by the city and county of Honolulu since its completion and said city and county has not paid any of the sums required by it to be paid under said contract, and The Gamewell Company has brought suit to recover the first payment required to be made under said contract together with certain other sums; and

WHEREAS, The Gamewell Company has at all times acted in good faith in entering into and performing said contract and should in justice and fairness be paid the rentals required to be paid by said contract without the necessity for protracted litigation, now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. It is hereby declared the true intent and meaning of Act 38, Second Special Session 1932, that the board of supervisors of the city and county of Honolulu shall have the power at any time after May 10, 1932, to enter into a contract for the purposes set forth in said Act 38, Second Special Session 1932, without a prior appropriation of the sums of money or any portion thereof required to be paid under said contract, and that the provisions of section 3, Act 62 of the Session Laws of 1903 (now section 82, Revised Laws of Hawaii 1935) and of section 1 of Act 72, Session Laws of 1911 (now section 2315, Revised Laws of Hawaii 1935) shall be inapplicable to such contract.

Section 2. The contract executed by and between the city and county of Honolulu and The Gamewell Company, dated June 24, 1932, is in all respects hereby ratified, confirmed and approved as of the date of its execution and the same is declared to be and shall be deemed to be a binding contract upon the city and county of Honolulu and enforceable in all respects in the same manner and to the same extent as all other lawful contracts of the city and county of Honolulu and all payments required under said contract are hereby made payable out of the general funds and/or current revenues of the said city and county and shall be made according to the terms of said contract as modified by that certain supplemental agreement entered into between the city and county of Honolulu and The Gamewell Company, dated April 8, 1937, which said supplemental agreement is hereby ratified and confirmed.

## FRANCHISE FEES, DISPOSITION OF

Sec. 2316. To general fund. All moneys received by any county or city and county from any public utility corporation under the provisions of the franchise granted to such corporation shall be kept in the fund known as "road fund" and expended on the construction, maintenance and repairs of public roads and highways of the county or city and county in which the same are received.

## DEPOSITS

Sec. 2317. Deposit of funds in banks. Chapter 74, relating to the deposit of territorial moneys in banks, is extended to the several counties and city and county, so that each county and city and county and its treasurer and mayor or chairman of its board of supervisors, respectively, shall have all the rights, powers, obligations and duties in respect of the moneys of the county or city and county as the Territory, its treasurer and governor, respectively, have in respect of the moneys of the Territory under said chapter; provided, however, that nothing in this section contained shall be held to preclude the treasurer of any county or city and county from making special deposits, with the approval of the board of supervisors or the mayor, as the case may be, for the safe-keeping of public moneys, other than those deposited in banks under the provisions of this section, as provided in sections 2882 and 3090.

Sec. 2317 A. Deposit of securities with treasurer. The treasurers of each of the various counties and city and county shall have authority to deposit for safekeeping with the treasurer of the Territory of Hawaii securities deposited with them by the banks with whom they have deposits. The duly authorized representatives of any bank who shall have deposited with any of the respective treasurers of the various counties and city and county, shall at all times during the office hours of the treasurer of the Territory of Hawaii have access to the security or securities belonging to such banks deposited with the territorial treasurer by the treasurers of the various counties and city and county for the purpose of examining the same and removing such coupons as may have matured, such examination to be made in the presence of the territorial treasurer or his representative.

Sec. 2318. Interest on deposits. If any money deposited by the treasurer of the county or city and county, under the provisions of section 2317, shall belong to the water works fund, the pension fund or sinking funds, then any interest received on the same shall be paid into and credited to such funds and if any money deposited by the treasurer of the county or city and county under the provisions of section 2317 shall belong to a bond fund, then any interest received on the same shall be paid into and credited to the interest fund from which the interest on the bonds will be paid.

## MISCELLANEOUS

Sec. 2319. Use of school buildings. The fullest freedom shall be given to citizens of the Territory to use for lawful purposes all public school buildings throughout the Territory during the hours such structures are not in use for strictly educational purposes; provided, however, that the person or persons vested with the proper authority by the board of supervisors, in whose jurisdiction any

such building shall be, shall issue a permit to the applicant, when the proposed use is shown to be lawful by the applicant.

Sec. 2320. Service of process. Service of any notice or process authorized by law issued against any county by any magistrate, court, judicial or administrative officer or board may be made by any officer authorized to make service of process, and may be made upon the county attorney or the deputy county attorney for such county, and in default of finding such county attorney or deputy county attorney, upon the county clerk, and in default of finding such county clerk, then upon the auditor, treasurer or any of the supervisors of the county, and any such service upon any such officer shall be binding upon the county. The word county as herein used shall include the city and county of Honolulu.

Sec. 2321. Disposition of plumbing fees. All moneys collected for plumbing permits in any county or city and county of the Territory shall be paid to the treasurers of such counties or city and county, and the same shall become municipal realizations.

CHAPTER 79.

HIGHWAYS, SIDEWALKS, PARKS:  
USE OF STREETS, ETC.

HIGHWAYS DEFINED; CONTROL, ETC.

Sec. 2340. Public highways defined. All roads, alleys, streets, ways, lanes, courts, places, trails and bridges in the Territory, opened, laid out or built by the government, or by private parties, and dedicated or abandoned to the public as highways, are declared to be public highways. All public highways once established shall continue until abandoned by due process of law.

Sec. 2341. Owned by government. The ownership of all public highways and the land, real estate and property of the same shall be in the government in fee simple.

Sec. 2342. In charge of the supervisors. The several boards of supervisors or other governing bodies of the several political subdivisions of the Territory have the general supervision, charge and control of all public highways, roads, alleys, streets, ways, lanes, squares, courts, trails and bridges and shall have the power to determine the terms under which irrigation or drainage ditches, flumes, railroads, including plantation railroads and similar structures, telephone, electric light and power lines, and pipes and other conduits may be maintained upon, under, over and across the same, and the boards or other governing bodies may make all regulations needful for the public convenience and safety in all cases where permission has been or may be granted to maintain any such ditches, railroads, pipes, or other structures across, under, over and upon all public highways, roads, alleys, streets, ways, lanes, squares, courts, trails and bridges.

Sec. 2343. Cantonier system. All roads constructed or reconstructed in whole or in part with moneys provided by the Loan Fund Act of 1917-1919, shall be divided into sections by the engineer of the county or city and county in which the money is expended, for the purpose of keeping the same in good condition and repair under the sectional upkeep or cantonier system, and a competent section man or cantonier shall be appointed and continuously maintained in charge of each such

section by the county or city and county at the expense of such county or city and county; provided, that such section man may be temporarily employed elsewhere in case of emergency, and that nothing herein contained shall be construed as preventing other expenditures on such roads which may, from time to time, be found necessary or proper. The county or city and county shall also furnish and keep at convenient locations along each of such sections, property, tools and materials for keeping such roads in good repair and condition.

Sec. 2344. Street and sidewalk grades. The board of supervisors is authorized by ordinance to establish the grades of all streets and highways, and the grades and widths of all sidewalks within its jurisdiction.

#### DEDICATION

Sec. 2345. How made. Dedication of any highway mentioned in section 2340 may be by deed or by a surrender or abandonment; such surrender or abandonment shall be taken to be when no act of ownership by the owner thereof has been exercised within five years.

Sec. 2346. Acceptance of. Any road, alley, street, way, lane, court, place, trail or bridge laid out, constructed, opened or maintained by individuals or corporations as a highway, may become a public highway by dedication or abandonment, or surrender thereof to general use by such individuals or corporations; provided that the same shall be accepted or adopted by the board of supervisors.

Sec. 2347. Disposal of abandoned road. Whenever a public road, street, alley or walk or any portion thereof shall at any time be vacated, closed, abandoned, or discontinued, the same shall be used for the purposes of the Territory, provided, that in case the same shall be in any way disposed of by the Territory, it shall be first offered to the abutters for a reasonable length of time and at a reasonable price, and if they do not take the same, then it may be sold at public auction.

#### NEW STREETS; HONOLULU, HILO

Sec. 2348. Application; to connect with public system. In case the owner of private land situate in the district of Honolulu, island of Oahu, or the town of Hilo, island of Hawaii, shall desire to open a street or streets for the use of the public on such land connecting with the street system of the district, or town, it shall be incumbent on him to first submit to the board of supervisors a chart and description of the proposed street or streets, giving accurately the location, extension, width, nature of construction and finish.

No street opened upon private land shall be construed to be for the use of the public unless the same shall communicate with the public system of streets.

Sec. 2349. Decisions by supervisors. The board of supervisors shall upon receiving such application examine the proposed location of the street or streets, and shall thereafter deliver to the applicant its written decision in regard to the proposed street or streets, approving or disapproving the same or recommending a modification of the plans therefor.

Sec. 2350. How built. Deed. No such street shall be accepted unless

the same is laid out, constructed and finished in accordance with plans approved by the board of supervisors, and a deed of conveyance thereof executed and delivered in favor of the government, and accepted by it.

### MAPS, MILE STONES, GUIDEPOSTS, NAMES

Sec. 2351. Maps, etc., copies; records. The board of supervisors is directed to prepare maps and diagrams of all public highways and certify to them, and copies of them, and all such maps and certified copies shall constitute and be public records of public highways. The clerk of the county or city and county is authorized to sign such certificates.

Sec. 2352. Mile marks. The board is directed to ascertain and define mileage distances upon the main public roads. A suitable mark shall be placed at each mile indicating clearly the distance from the point of departure. If the board deems it necessary or useful, it may also ascertain and maintain local mile marks; but in such cases the mark shall definitely name the local point of departure.

Sec. 2353. Points of departure for. On the island of Hawaii, the general point of departure for mileage shall be the post office in Hilo, and the court house at Waimea. On Maui it shall be the court house in Wailuku. On Molokai it shall be the court house at Pukoo. On Oahu it shall be Aliiolani Hale. On Kauai it shall be the court house at Nawiliwili.

Sec. 2354. Guideposts. In addition to the distance measurements, to be ascertained and maintained as by this chapter provided, the board is likewise charged with the duty of erecting and maintaining, at all important cross or branch roads on public highways, guideposts, direction boards, or signs with suitable inscriptions indicating the direction of the nearest important points or places to which such cross or branch roads or public highways respectively lead.

Sec. 2355. Penalty for injuring. Whoever maliciously removes or injures any mile board or mile stone, or guide board or guide post, or any marker indicating the location of any place of historic or scenic interest, or any inscription on such, erected on any public highway or at or near any place of historic or scenic interest, whether erected by or under the direction of any board of supervisors, or by or under the direction of any civic body or organization, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars.

Sec. 2356. Street names on corners. Upon the corners of all streets in Honolulu, Hilo, Wailuku and Lahaina, the street names shall be placed in conspicuous positions, at least three and a half feet above the street grade.

Sec. 2357. Expenses. All expenses incurred under or in consequence of the provisions of sections 2340, 2341, 2342, 2345, 2346, 2351-2356, 2358-2364, 2390-2395, not otherwise provided for, shall be paid out of the road fund.

### SIDEWALKS

Sec. 2358. Sidewalks, including curbs. Regulations. In all cases the construction, maintenance and repair of sidewalks, including curbs, shall be subject to such regulations regarding grades, width, height, material and methods of construction as may be from time to time promulgated by the board.

Sec. 2359. Abutter to pay costs. All sidewalks, including curbs, shall be constructed, maintained and repaired at the expense of the adjoining owner or abutter subject to the provisions of section 2360.

Sec. 2360. Honolulu, Hilo. After the establishment of the grades of streets in Honolulu and Hilo, as by law prescribed, the board may require the owners of the land adjoining any street, the grade of which has been established, to construct, maintain and repair sidewalks, including curbs, in accordance with the grade of the street and to comply with the regulations regarding the material and construction of the same.

Sec. 2361. Procedure on owner failing to build, maintain or repair. Lien. If any such owner, after receiving notice to construct, maintain or repair his sidewalk or sidewalks, including curbs, as provided in section 2360, shall neglect or refuse to comply with such order or direction for sixty days after notice, the board may proceed to construct, maintain or repair the same at the expense of the owner. The expense shall be a lien on the property in front of which the same is constructed, maintained or repaired and the board may, in the name of the county or city and county, recover the amount of the lien and the expense and costs of the same, by action at law in assumpsit, or by any action allowed by law and equity, or that may be prescribed by statute, including any proceeding allowed for the foreclosure of tax liens.

Sec. 2362. Notice. The notice specified in section 2361 shall be given by publishing the same in some newspaper of general circulation in the county or city and county, where sidewalks or curbs are to be constructed, maintained or repaired, for ten consecutive days, Sundays excepted, and by posting a copy of the notice upon the premises in front of which sidewalks or curbs are to be so constructed, maintained or repaired, during the period of the publication. The sixty days specified in section 2361 shall run from the last day of publication.

Sec. 2363: Driving on prohibited. Any person using a sidewalk, constructed according to the provisions of this chapter, with mule, horse or team, or who shall drive a wagon, bicycle or other wheeled vehicle on such sidewalk without permission of the owner, shall be liable to the owner or occupant in the sum of five dollars for each trespass, and for all damages suffered thereby, to be recovered by such owner or occupant in an action of trespass.

Sec. 2364. Penalty for violating regulations. Any person who shall violate any of the regulations or rules that may be promulgated by the board under the provisions of section 2358 shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars.

#### HONOLULU SIDEWALKS: IMPROVEMENT DISTRICTS, CLEANING

Sec. 2365. Owners to clean sidewalks. After the establishment of the grades of streets within the city of Honolulu and the construction of streets and adjacent sidewalks under chapter 92, every property owner whose frontage abuts or adjoins such streets and sidewalks shall, after the construction of such streets and sidewalks, continuously maintain, and keep clean, passable and free from weeds and noxious growths the whole of such sidewalk as may abut or front upon his premises and property.

Sec. 2366. Procedure if owner fails to clean; notice. If such owner,

after receiving notice from the city and county, fails, within twenty days after such notice, to clean such sidewalk, or fails and neglects to keep such sidewalk clean and free from weeds and noxious growths, then and thereupon the city and county shall proceed to clean such sidewalk, as may be reasonably required, and the cost thereof shall be charged to and against such property owner and shall be collected from such property owner, if not immediately paid, by action in the district court.

The notice shall be sent to such property owner by mailing it to his last known place of abode, or address and, as well, by posting a copy of the notice on the premises of the owner, abutting or adjacent to the particular sidewalk requiring such attention, work and service.

Sec. 2367. Board of supervisors; duties. The city and county, by and through its board of supervisors, is expressly charged with the execution of the provisions of this subtitle. The necessity and reasonableness of the attention, work and service indicated in this subtitle shall be wholly vested in the judgment of the board.

#### PUBLIC PARKS

Sec. 2368. Parks in charge of supervisors. All public parks and public recreation grounds, other than the Makiki valley park or reservation and with the exception of those within the city and county of Honolulu, are transferred to and placed in charge of the board of supervisors of the county in which the same may be located, to be maintained, managed and controlled by them. All lands set apart or acquired as public parks and public recreation grounds, except in the city and county of Honolulu, shall likewise be placed in charge of and maintained by the several boards of supervisors.

Sec. 2369. Thomas Square; to be maintained. Thomas Square shall be maintained as a public park and the board of supervisors of the city and county of Honolulu is prohibited from extending Young street through it.

#### USE AND PRESERVATION OF CERTAIN STREETS, ETC.

Sec. 2370. Regulations, Honolulu fire limits. Nothing in sections 2370-2389 shall be held to conflict with any laws or regulations for the fire control or management of the district known as the "fire limits of Honolulu." The provisions of said sections shall apply to all public streets, lanes, alleys or sidewalks in the towns mentioned in section 2371 within such limits as may be from time to time fixed by the board of supervisors.

Sec. 2371. Goods on street or wharf. No person shall place, leave or deposit in any street, lane, or alley, or upon any side or cross walk, or upon any public wharf in the city of Honolulu, or in the towns of Lahaina, Hilo, Wailuku or Kahului, any goods, wares, or merchandise, or any substance or material whatever, except as permitted by law.

Sec. 2372. Awnings, etc. No person shall hang, suspend, place, construct or cause or permit to grow over any such street, lane or alley, side or crosswalk or wharf, any sign, awning, frame, balcony, tree, bush, vine, provided such tree, bush, vine or other growth shall obstruct the street, or any other projection whatever, except as permitted by law.

Sec. 2373. Poles, etc. No person shall erect or place in or upon any such street, lane, alley, side or crosswalk, or wharf, any hitching-post, telegraph or telephone poles, or flagstaff, or other structure, except as permitted by law.

Sec. 2374. Digging up street, etc. No person shall dig any such street, lane, alley, side or crosswalk, or wharf, or remove or carry away any dirt, soil, plank, paving or flagging stone, or other material of which the same may be constructed, or take up or disturb any such plank, paving or flagging stone except as permitted by law.

Sec. 2375. Punishment: Any person who shall do any of the acts prohibited by any of the foregoing four sections shall upon conviction thereof be fined not less than five dollars, nor more than twenty-five dollars, for each and every offense.

Sec. 2376. Notice to remove: The board of supervisors shall notify any person who shall have placed, left or deposited any substance or material contrary to the provisions of section 2371, or who shall have hung, suspended, placed, constructed, or permitted to grow, any projection or article contrary to the provisions of section 2372 to remove the same, and the person so notified shall forfeit and pay a penalty of five dollars for every twenty-four hours that the same shall remain after such notice shall have been given.

If any person who shall have received the notice provided in this section shall not comply with such notice for the space of twenty-hours, the board may remove the obstruction at the expense of such person, and such person shall be liable for the cost of such removal in addition to the penalty provided in this section.

Sec. 2377. Permission to builder. The board of supervisors may grant permission in writing to any person about to erect any building to occupy a portion of the street and sidewalk in front of the lot upon which such building is about to be erected, not exceeding one-half of the width of the street, and one-half of the width of the sidewalk, for a reasonable time during the erection of such building; such permission shall not be granted for a longer period of time than two months, but may be extended by the board, and may be revoked at any time by it if it shall be found to create a serious obstruction of the street or sidewalk. When the time limited in such permission shall have expired, or such permission shall have been revoked, the person to whom such permission shall have been granted, shall cause all materials placed by him, and remaining in the street or upon the sidewalk pursuant to such permission, to be removed within five days, and in default thereof shall be liable to a penalty of five dollars for every day that the same shall remain thereafter. Any person so occupying any portion of such road or sidewalk shall place and maintain such lights near the obstruction as will prevent accidents:

If any person who shall have received the permission provided in this section, shall fail to remove any material placed by him and remaining in the street or upon the sidewalk within twenty-four hours after the time limited in such permission shall have expired, or after such permission shall have been revoked, or shall fail to place and maintain the lights herein required, the board may remove the same, and may place and maintain such lights at the expense of such person, and such person shall be liable for the cost of such removal and of such lights in addition to the penalty provided in this section.

Sec. 2378. Goods on sidewalk. Any person may leave any goods, wares or merchandise, which he shall be about receiving or delivering, for a period of time not exceeding three hours upon the sidewalk in front of his building, such goods, wares or merchandise not to cover more than two-thirds of the width of the sidewalk, and not to be piled up to a greater height than four feet.

Sec. 2379. Hitching posts. Posts for the purpose of hitching horses or other animals may be placed at the outer edge of the sidewalk, or on the edge of the road in front of any building, and such posts shall be not more than four feet in height.

Sec. 2380. Regulations as to trees and poles. The board of supervisors may grant permission, except in the district of Honolulu, to place, plant, or set out ornamental or shade trees within any sidewalk not more than one foot from the outer edge thereof, and may grant permission to erect flagstaffs, telegraph or telephone poles in any or all of the streets or roads as may be for the public convenience; and the board is authorized to make regulations for the placing and erecting of the same, and such regulations must be strictly complied with by any person, firm or corporation to whom such permission shall be granted.

Sec. 2381. Punishment. Any person who shall violate any of the provisions of sections 2378-2380, shall be liable to a penalty of not less than five dollars, nor more than twenty-five dollars, for each and every offense.

Sec. 2382. Permission to dig up street. The board of supervisors may grant permission to any person to dig up the sidewalk and street in front of his lot or building, for the purpose of making a connection with any water or gas main or public sewer, or for other purposes. The person to whom such permission shall be granted, shall, within twenty-four hours from the time the work is commenced, finish the same, and refill, replace, rebuild and relay the street and sidewalk taken up or disturbed by him, in a substantial and workmanlike manner, and leave the same in as good condition as it was when the permission was granted. If any excavation made for the purposes mentioned in this section shall remain open at night, the person having the permission shall place and maintain such light or lights near the opening as will prevent accidents.

If any person who shall have received the permission, shall fail to replace the street or sidewalk, or to place the lights as herein provided, he shall be liable to a penalty of not less than five dollars, nor more than twenty-five dollars, for every twenty-four hours that the default shall continue, and the board may replace the same, or place such lights at the expense of such person, and such person shall be liable for the cost of such replacing, or of such lights in addition to the penalty for delay.

Sec. 2383. Driving on sidewalk. No person shall drive, draw, or cause to go upon any sidewalk any vehicle whatsoever, except when it shall be necessary for such vehicle to cross such sidewalk for the purpose of going into some yard, or lot, or into some place where such vehicle is kept when not in use.

Sec. 2384. Hitching to trees. No person shall hitch or fasten any horse, or other animal, to any ornamental or shade tree in the streets or sidewalks, or to any box or frame around such tree.

Sec. 2385. Hitching on sidewalk. No person shall hitch or fasten any

horse or animal in such manner that the horse or animal; or the appliance used for hitching or fastening the horse or animal, shall obstruct the free passage along any side or crosswalk.

Sec. 2386. Vehicle on street. No person shall leave or permit to remain upon any street, lane or alley, any animal drawn vehicle belonging to him, or over which he shall have control, for a longer time than fifteen minutes, unless there shall be attached to the vehicle some draught animal. Nor shall any person unnecessarily obstruct the passage of any street, lane, alley or crosswalk, by means of any vehicle or animal.

Sec. 2387. Moving building on street. No person shall move, or cause to be moved, or assist in moving any building into, upon, along or across any street, lane, alley or sidewalk, without having first obtained permission in writing so to do from the board of supervisors.

Sec. 2388. Kites. No person shall fly kites in or upon any street, lane, alley or sidewalk.

Sec. 2389. Punishment. Any person who shall do any of the acts prohibited by, or violate any of the provisions of sections 2383-2388, or remove or extinguish any lights placed as provided by sections 2377 or 2382, shall be liable to a penalty of not less than five, nor more than twenty-five dollars, for each and every offense.

#### TREES

Sec. 2390. Planting along highway. Except in the district of Honolulu, any owner or occupant of land adjoining a public highway may plant trees in and along the highway on the side contiguous to his land; they shall be set in regular rows, at a distance of at least twenty feet from each other, and so that they shall not interfere with the free passage of water in the gutters; and shall be subject to such regulations as may be from time to time made by the board of supervisors.

Sec. 2391. Action for injury to. Any person injuring the trees in front of the premises of any owner or occupant without permission of the owner or occupant shall be liable to the owner or occupant in the sum of five dollars for each tree so injured, to be recovered in an action of trespass; provided, that this shall not apply to the trimming and removal of trees by authority of proper officers for public purposes and uses.

Sec. 2392. Maliciously injuring, punishment. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any public highway, unless the same is deemed an obstruction by the board of supervisors or those acting under its authority, or by other persons by law duly authorized, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars.

#### CROSSINGS

Sec. 2393. Ditches crossing highway. All persons excavating or making or maintaining irrigation or drainage ditches, or ways across public highways, are required to bridge such ditches at the crossing, and maintain the same in good repair; and in case of neglect, after notice so to do, the board of supervisors may

construct the same, or repair the same, and recover the whole costs and expense of the same, of such person, in an action at law. Such action may be brought in the name of the county or city and county and the respective boards of supervisors are authorized to institute such action.

Sec. 2394. Railroad crossings, etc. Whenever highways are laid out to cross railroads, canals or ditches the board of supervisors must, at public expense and without delay, so prepare and guard such road, canal or ditch that the public may cross the same without danger.

#### GATES

Sec. 2395. Across-highway; punishment. The board of supervisors in its discretion, may permit the establishment of gates on the public highways in certain cases to avoid the necessity of building road fences and prescribe rules and regulations for closing the same; provided that the expense for the erection and maintenance of such gates shall, in all cases, be borne by the person for whose immediate benefit the same shall be ordered.

Any person who shall violate any of the regulations or rules that may be promulgated by the board under the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars.

#### FATHER DAMIEN MEMORIAL

Sec. 2396. Chapel declared public memorial; appropriation. The Father Damien Memorial Chapel at Kalawao, Molokai, and the premises and graveyard thereof are hereby declared to be a public memorial to Father Damien.

The sum of three thousand dollars (\$3,000.00) is hereby appropriated out of money in the treasury received from the general revenues, for the repair, maintenance and upkeep of such memorial.

Said sum of three thousand dollars (\$3,000.00) shall be paid to the Board of Hospitals and Settlement by the treasurer of the Territory of Hawaii, on warrants drawn by the auditor of the Territory of Hawaii, and said Board of Hospitals and Settlement is hereby authorized to expend said sum in its discretion to carry out the intent and purposes of this act.

#### HAWAII HOUSING AUTHORITY

Sec. 2397 A. Finding and declaration of necessity. It is hereby declared that unsanitary or unsafe dwelling accommodations exist in various areas of the Territory of Hawaii, and that consequently many persons of low income are forced to reside in such dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the inhabitants of the Territory and impair economic values; that the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which private property may be acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination.

Sec. 2397 B. Definitions. The following terms, whenever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the Hawaii Housing Authority organized under the laws of this Territory.
2. "Political subdivisions" shall mean the counties, city and county, cities, towns and villages of the Territory of Hawaii.
3. "Housing project" shall mean any undertaking by the Authority or the United States (a) to demolish, clear, remove, alter or repair unsafe or unsanitary housing, or (b) to provide dwelling accommodations for persons of low income, or (c) to do both, and said term may also include such buildings and equipment, lands and grounds for recreational or social assemblies for education, health or welfare purposes, and such necessary or convenient utilities as are designed primarily for use in connection with such dwelling accommodations.

Sec. 2397 C. Conveyance, lease or agreement in aid of housing project. For the purpose of aiding and cooperating in the planning, construction and operation of housing projects located within their respective territorial boundaries, the Territory of Hawaii, its political subdivisions and agencies, may, upon such terms, with or without consideration, as it may determine:

- (a) Grant, sell, convey or lease any of its property, to the Authority or the United States of America or any agency thereof; and
- (b) To the extent that it is within the scope of each of their respective functions, (1) cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof, and (2) provide and maintain parks and sewage, water, light and other facilities adjacent to or in connection with housing projects, and (3) open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities, and (4) change the map of a political subdivision or plan, replan, zone or rezone any part of a political subdivision.
- (c) Enter into contracts with the Authority or the United States for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction and operation of housing projects, the Commissioner of Public Lands, the Hawaiian Homes Commission and any other officers of the Territory having power to manage or dispose of its public lands may, with the approval of the Governor and with or without consideration, grant, sell, convey or lease for any period, any parts of such public lands (without limit as to area) to the Authority or the United States of America or any agency thereof.

Any law or statute to the contrary notwithstanding, any gift, grant, sale, conveyance, lease or agreement provided for in this section may be made by the Territory, its political subdivisions and agencies, without appraisal, public notice, advertisement or public bidding.

Sec. 2397 D. Advances and donations. For the purpose of enabling the Legislature to appropriate money to the Authority for its administrative expenses and overhead during the first two years following the passage of this Act, the Governor of Hawaii shall submit an estimate of the amount of such expenses and overhead to the Legislature. The Governor shall also submit to the Legislature at each succeeding regular session estimates of the amount of the administrative expenses and overhead of the Authority for the succeeding biennial period, so that the Legislature may make an appropriation therefor if it deems such action advisable.

Any political subdivisions within the Territorial boundaries of which a housing project or projects are located or about to be located shall have power from time to time to make donations or advances to the Authority of such sums as such political subdivision in its discretion may determine, such advances or donations to be made for the purpose of aiding or cooperating in the construction and operation of such housing project or projects. The Authority, when it has money available therefor, shall reimburse political subdivisions for all advances made by way of a loan to it.

Sec. 2397 E. Action of political subdivision by resolution. All action authorized to be taken under this Act by the council or other governing body of any political subdivision may be by resolution adopted by a majority of all the members of its council or other governing body, which resolution may be adopted at the meeting of the council or other governing body at which such resolution is introduced and shall take effect immediately upon such adoption, and no such resolution need be published or posted.

Sec. 2397 F. Purpose of act. It is the purpose and intent of this Act that the Territory and its political subdivisions and agencies, shall be authorized, and are hereby authorized, to do any and all things necessary to aid and cooperate in the planning, construction and operation of housing projects by the Authority or the United States.

Sec. 2397 G. Supplemental nature of act. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Sec. 2397 H. Separability clause. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 2397 I. Effective date. This Act shall take effect upon the enactment of revenue bond enabling legislation by the Congress of the United States of America.

LICENSES

General Provisions.....	2400-2416
Ball or Marble Machines.....	2416 A - B
Auction.....	2417-2432
Billiards and Bowling Alleys.....	2433-2435
Butcher; Beef, Pork.....	2436-2439
Collection Agencies.....	2440-2442
Detectives, Private.....	2443-2446B
Emigrant Agents.....	2447-2455
Employment Agencies.....	2456
Explosive, Sale of.....	2457-2461
Firearms and Ammunition.....	2540-2557
Fishing and Hunting.....	2462-2468
Fish Traps, Pounds and Weirs.....	2469-2470
Food Products.....	2471-2472
Intoxicating Liquors.....	2570-2642
Laundry.....	2473
Lodging or Tenement Houses, Hotels, Boarding Houses and Restaurants.....	2474-2481
Milk.....	2482-2484
Motor Vehicles.....	2650-2706
Notaries Public.....	2485
Outdoor Advertising.....	2486-2491
Pawnbrokers.....	2492-2497
Peddlers.....	2498-2499
Peddling Cake.....	2500
Poisonous Drugs.....	2501-2503
Public Shows.....	2504-2508
Second-hand Dealers.....	2509-2511
Solicitors.....	2512-2516
Steam Laundries, Honolulu.....	2517-2520
Surety, Bail Bond.....	2521-2523
Tobacco, Cigars and Cigarettes.....	2524-2526
Vehicles and Drivers for Hire.....	2527-2532

GENERAL PROVISIONS

Sec. 2400. "Treasurer" defined. Wherever in this chapter the word "Treasurer" is used it shall refer to and mean the treasurer of any county or city and county of the Territory.

Sec. 2401. Treasurer to issue. The treasurer may, upon the application of any person, issue to such applicant any license in this chapter enumerated, upon the terms and conditions in this chapter set forth.

Sec. 2402. Signed by whom. Every license shall be signed by the treasurer of the county or city and county, within which the license is to be operative, and impressed with the seal of his office. Such seal shall be as determined by the board of supervisors; provided, that any license which authorizes the licensee to do business throughout the Territory shall be signed by the treasurer of the county or city and county in which the principal office of the licensee is situated.

Sec. 2403. No license issued when. No license shall be issued by any treasurer, or other officer or employee, for any purpose whatsoever, unless the applicant for such license (if subject to the requirements of chapter 245) shall have filed with the treasurer, officer or employee a certificate from the industrial accident board of the county or city and county where the principal business or occupation of the applicant is carried on, showing that the applicant has complied with the provisions of sections 7526 and 7527, and unless the applicant shall also have filed with the treasurer, officer or employee, a certificate showing the payment in full of all delinquent taxes.

Sec. 2404. Fees in advance. No license shall be issued under this chapter until the full fee required therein shall have been paid in advance for the term of one year.

Each treasurer shall account for all fees collected by him as county or city and county realizations.

Sec. 2405. Fees; date when due and payable. All fees for licenses prescribed by any law of the Territory, except those prescribed by chapter 224, shall be due and payable in advance on July 1, in each year, or on commencing any trade or business for which such license is required. In the former case such license fee shall be reckoned for one year; and in the latter case it shall be reckoned proportionally from the first day of the month in which the trade or business is begun to July 1 following.

Sec. 2406. Place of business. Except as otherwise in this chapter provided, a license granted thereunder shall authorize the carrying on of the business licensed only at the place indicated in the license, except in case of removal, and upon the written consent of the treasurer indorsed thereon.

Sec. 2407. Statement by partners; penalties. Before any license shall be issued to any persons carrying on business as copartners, the treasurer of the county or city and county by whom the license is issued shall first require such persons to file in his office a statement in writing showing: 1. the names and residences of each of the members of the copartnership; 2. the firm name; 3. the place or places of business of the copartnership.

This statement shall be verified as true by the oath of one of the partners.

Any person failing to comply with the provisions of this section with regard to the filing of the statement therein required shall be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than five hundred dollars, or imprisonment for not more than six months, or both. Any person making any false statement in the oath required in this section shall be guilty of perjury and be subject to the penalties prescribed for such offense.

Sec. 2408. Not transferable. No license issued under this chapter shall be transferable.

Sec. 2409. Canceled on transferring, etc., business. If any licensee shall close out, transfer or assign the business for which a license is held, during the term for which the same was issued, he shall within thirty days from the date of such closing out, transfer or assignment, notify the treasurer of such

fact in writing and return the license to the treasurer for cancellation, under a penalty for failure so to do of one hundred dollars.

Sec. 2410. Term one year. Subject to the provisions of section 2405, all licenses issued for carrying on the several businesses, or doing the acts in this chapter enumerated, shall be issued by the treasurer in accordance with the terms and conditions and for the fees in this chapter enumerated, for the respective terms of one year from the several dates of issue.

Sec. 2411. Exposed to view, penalty. All persons holding a license for any class or kind of business shall keep the license exposed to view, in some prominent place, convenient for inspection, on the premises for which the same is granted. Any failure to comply with the requirements of this section, shall subject the person, or firm, under whose name the license is held, to a fine of not less than ten dollars or, more than fifty dollars.

Sec. 2412. Business without license forbidden. The carrying on of any business, or the doing of any act in this chapter enumerated, except upon obtaining a license in conformity with the provisions thereof, is forbidden.

Sec. 2413. Deputy sheriffs license inspectors. The deputy sheriffs of the several districts of the Territory shall be ex-officio license inspectors of the districts for which they are appointed, and as such, it shall be the duty of every deputy sherrif from time to time to report to the county or city and county treasurer the names of all persons within his district who are liable for the payment of license fees.

Sec. 2414. Penalty unless otherwise prescribed. Any person who shall engage in or carry on any business; or do any act enumerated in this chapter, the engaging in or doing of which is therein required to be licensed, without first obtaining a license issued in conformity with the provisions thereof; or who shall sell any goods, wares, merchandise, produce or thing of value, contrary to the terms of this chapter; or who shall violate or fail to observe any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction shall, unless otherwise in this chapter provided, be fined a sum not less than the annual fee, and not more than twice the annual fee in this chapter prescribed for the carrying on of such business, or the doing of such act.

Sec. 2415. Limits of license. Where a license has been issued in any county or city and county to any person having his principal place of business in such county or city and county, the licensee shall be authorized thereunder to transact personally the business, profession, trade, calling or occupation covered by such license, or in the transaction thereof to send his agents, drummers, salesmen or other representatives into and through any other county or city and county without the payment of any additional license tax or the procurement of any license in or from such county or city and county; provided, however, that any person maintaining an agency or branch office in any county or city and county other than the one in which his principal place of business is located, may be required to pay a license tax for any such agency or branch office, in and to the county or city and county in which such agency or branch office is located.

Sec. 2416. Rules and regulations. The boards of supervisors shall have the power by ordinance to make such rules and regulations not inconsistent with law concerning the conduct of the business of all persons licensed under the provi-

sions of this chapter, as may be deemed necessary for the public good.

#### BALL OR MARBLE MACHINES

Sec. 2416 A. Annual license. No person shall, after July 1, 1935, operate, or permit to be operated, on any premises under his control, for profit, any machine or device used as a game or sport in which balls or marbles are projected against obstacles governing their course toward or away from various slots or receptacles, without first having obtained from the treasurer of the county an annual license therefor, for which shall be charged, and collected as a county realization, the sum of five dollars (\$5.00) for each machine or device.

Nothing herein contained shall be deemed to authorize the licensing of any gambling device.

Sec. 2416 B. Penalty. Any person violating the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one thousand dollars or be imprisoned not more than one year, or both, and any such machine operated in violation of the provisions hereof shall be seized and destroyed.

#### AUCTION

Sec. 2417 Fee. The annual fee for a license to sell goods, wares and merchandise or other property at auction, shall be one hundred dollars for the district of Honolulu, and fifteen dollars for each other taxation district.

Sec. 2418. Public auction unlawful when. It shall be unlawful for any person to sell, offer for sale or expose for sale at public auction, any personal property at any place other than in a public auction room, except household furniture, vehicles, automobiles, machinery, live stock and such bulky articles as have usually been sold in warehouses or places other than auction rooms; provided, however, that the provisions of this section shall not apply to any sale made under the direction of any court or to sales of any personal property belonging to the Territory or to any county or city and county, or to a bona fide sale of a stock of merchandise where the creditors of the owner thereof are engaged in the legitimate closing out of such stock; nor to hawkers on the street nor peddlers from vehicles, nor to persons selling fruit, fish, vegetables, butter, eggs or other farm or ranch produce; nor to a bona fide sale of a stock of merchandise where the owner thereof is engaged in a legitimate closing out of any such stock and such owner has been engaged in business at a specified location in the Territory for not less than six months immediately preceding the commencement of any such sale; provided, further, that in the latter case, the owner shall, before commencing any such sale, affix to each article to be sold a tag designating the article by serial number, and file with the county or city and county treasurer a true and sworn statement containing a detailed list and inventory of such stock which shall include (a) a description of each article to be sold sufficient to identify the same, (b) its serial number, (c) its cost price, and (d) the approximate date of its receipt by the owner, if received by him not more than ninety days prior to the date of such statement, and shall immediately, upon the conclusion of such sale, file with the treasurer a true and sworn statement containing a detailed list and inventory of such stock as has been sold at and during such sale, which shall include (a) a description of each article sold sufficient to identify the same, (b) its serial number, and (c) the price received therefor.

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#### AUCTION

Sec. 2417. Fee. The annual fee for a license to sell goods, wares and merchandise or other property at auction, shall be one hundred dollars for the district of Honolulu, and fifteen dollars for each other taxation district.

Sec. 2418. Public auction unlawful when. It shall be unlawful for any person to sell, offer for sale or expose for sale at public auction, any personal property at any place other than in a public auction room, except household furniture, vehicles, automobiles, machinery, live stock and such bulky articles as have usually been sold in warehouses or places other than auction rooms; provided, however, that the provisions of this section shall not apply to any sale made under the direction of any court or to sales of any personal property belonging to the Territory or to any county or city and county, or to a bona fide sale of a stock of merchandise where the creditors of the owner thereof are engaged in the legitimate closing out of such stock; nor to hawkers on the street nor peddlers from vehicles, nor to persons selling fruit, fish, vegetables, butter, eggs or other farm or ranch produce; nor to a bona fide sale of a stock of merchandise where the owner thereof is engaged in a legitimate closing out of any such stock and such owner has been engaged in business at a specified location in the Territory for not less than six months immediately preceding the commencement of any such sale; provided, further, that in the latter case, the owner shall, before commencing any such sale, affix to each article to be sold a tag designating the article by serial number, and file with the county or city and county treasurer a true and sworn statement containing a detailed list and inventory of such stock which shall include (a) a description of each article to be sold sufficient to identify the same, (b) its serial number, (c) its cost price, and (d) the approximate date of its receipt by the owner, if received by him not more than ninety days prior to the date of such statement, and shall immediately, upon the conclusion of such sale, file with the treasurer a true and sworn statement containing a detailed list and inventory of such stock as has been sold at and during such sale, which shall include (a) a description of each article sold sufficient to identify the same, (b) its serial number, and (c) the price received therefor.

The treasurer may at any time prior to the filing of the final statement with him, or within ten days thereafter, require the owner to file with him the invoices and bills of lading of any articles in the stock which appear from the preliminary statement to have been received by the owner within three months prior to the first day of such sale. The statements, invoices and bills of lading shall be open to inspection by any interested person on application to the treasurer. Such sale at public auction shall be only of the stock on hand at the time of filing the aforesaid statement with the treasurer, and such stock shall not be augmented or replenished in anticipation of such auction sale, or pending or during such sale, and such auction sale shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty days within the period of one year. Failure to comply with any of the foregoing provisions shall be deemed prima facie evidence that such sale was not for legitimate purpose of closing out such stock. For the purposes of this chapter, a public auction room is defined to be a place designated by a licensed auctioneer in the manner set forth in section 2423, as the place for holding auction; and further provided that the treasurer of any county or city and county may give a special permit to any regularly licensed auctioneer to conduct the sale of pictures, paintings, furniture, books and bric-a-brac, or personal property under foreclosure of mortgage at a place other than at such public auction room.

Sec. 2419. Hours for auctions. No auction sale of goods, wares and merchandise shall be conducted between the hours of 6:00 o'clock in the evening and 8:00 o'clock in the morning, and no such auction of any nature or description shall be conducted during the months of November and December of any year; provided, however, that this section shall not apply to sales of household furniture, vehicles, automobiles, machinery, live stock and like bulky articles, or to any sale made under the direction of any court, or to sales of any personal property belonging to the Territory or to any county or city and county, or to a bona fide sale of a stock of merchandise where the creditors of the owner thereof are engaged in the legitimate closing out of such stock; nor to hawkers on the street nor peddlers from vehicles, nor to persons selling fruits, fish, vegetables, butter, eggs or other farm or ranch produce; provided, further, however, that the prohibitions of this section shall not apply to auctions held in public auction rooms which have been established six months or more.

Sec. 2420. Fictitious bids. At any auction sale; it shall be unlawful for any person to procure any person to make fictitious bids; or to conspire with any person to make any fictitious bid; or knowingly to permit any person to make a fictitious bid; or for any auctioneer fictitiously to raise any bid himself; or for any person to act as a by-bidder, or what is commonly known as a "capper", "booster", or "shiller", or offer to make any false or fictitious bid, or pretend to bid for, or pretend to buy, any article sold or offered for sale.

Sec. 2421. Description of goods sold considered warranties. Any person selling, disposing of or offering for sale at public auction any of the stock of merchandise for the purpose of closing out the same as provided in section 2418, shall, in describing the same, be truthful with respect to the cost, character, quality, kind and description of the same, and such descriptions shall, for the purpose of the sale be considered as warranties.

Sec. 2422. Auction at places other than auction room. Mock auctions. It shall be unlawful for any person, other than a licensed auctioneer to hold, conduct, carry on or maintain any auction room or place for holding public auction

sales, or to advertise, or hold himself out to the public as an auctioneer, or to conduct, carry on or maintain any sale of goods by public auction; and it shall be unlawful to maintain, carry on or conduct any mock auction; or to advertise or represent as an auction that which is or will be a sale other than auction.

Sec. 2423. Designation of place for business. Every licensed auctioneer shall file with the treasurer of the county or city and county in which such auctioneer is licensed, a statement in writing signed by him designating his place for holding auction in such county or city and county. Upon any change in location he shall immediately file a new designation.

Sec. 2424. Violation, penalty. Any person violating any of the provisions of section 2418, 2419, 2420, 2421, or 2422 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars and his auctioneer's license shall be subject to forfeiture at the discretion of the court. Each day that any of the above specified sections are violated shall constitute and be a separate offense, punishable as in this section provided.

Sec. 2425. Record books. Every auctioneer shall keep and preserve a record book in which shall be entered:

1. A detail list and description of the property received for sale;
2. The name of the person from whom, or on account of whom the same is received;
3. The date upon which the same is received;
4. The date upon which the same is sold;
5. The price for which each article is sold;
6. The name of the person to whom each article is sold; which record shall, during the regular business hours be open to the inspection of any person desiring to see the same. Every such entry shall be made immediately after each transaction required to be recorded.

Sec. 2426. Bond. Every person, upon receiving an auction license, shall give a bond to the treasurer in the penal sum of three thousand dollars, if the license is for the district of Honolulu, and in the penal sum of five hundred dollars for other districts, with good and sufficient surety or sureties to be approved by the treasurer; conditioned:

1. That he will faithfully and truly keep the records required by section 2425 to be kept;
2. That he will faithfully, promptly and truly account to all persons for whom he may sell property, and promptly pay to them all sums received by him for sale of the same, after deducting therefrom his commissions and expenses;
3. That he will not sell goods, wares, merchandise or other property, except at public auction;

4. That he will otherwise in all things conform to the laws relating to auctioneers:

Sec. 2427. Suit on bond. The treasurer or, by his written consent, any person whose property is sold by any auctioneer, concerning which property a record shall not have been kept as required by section 2425; or concerning which the auctioneer shall otherwise have failed to fulfill the terms of his bond, may prosecute the auctioneer under his bond, and recover thereon any actual loss caused to him or sum due to him by the auctioneer, and also the sum of five dollars to the use of the treasury for each item by section 2475 required to be entered in the record which is omitted therefrom, or which is entered therein incorrectly; and the license of such auctioneer may, in the discretion of any judge or court, be canceled.

Sec. 2428. Suit at whose cost. In case action on the bond shall be brought by any person other than the treasurer, such action shall be in the name and at the sole cost, charge and expense of such plaintiff.

Sec. 2429. Auctioneer's charges. Every auctioneer may charge a commission of not more than five per centum upon all sales and collections made by him; and the actual amounts paid by him for advertising the sale of any property sold, and any other expenses that may be especially agreed upon between him and the owner of the property to be sold, and may deduct such commission and expenses from the proceeds of any such sale.

Sec. 2430. Auctioneer may sue. Every auctioneer may sue in his own name any person purchasing property sold by him at auction, whether to enforce specific performance of the sale or to collect the purchase price thereof.

Sec. 2431. Public officers, etc., may sell without license. Nothing in any law relating to auction licenses, shall be construed to extend to or affect sales at auction made by the high sheriff or any sheriff, deputy sheriff, police officer, pound master, tax collector, or other public officer; or by any executor, administrator, guardian, assignee, or other person who may be required or authorized by law to sell any property at auction, and who shall under such authority so sell such property.

Sec. 2432. Auctioneer's agent. Any auctioneer may appoint any agent or assistant to act for him in the conduct of his auction business, for all of the acts of whom he shall be responsible in the same manner as though they were done personally by himself.

#### BILLIARS AND BOWLING ALLEYS

Sec. 2433. Fee. The annual fee for a license to keep a Billiard table or a bowling alley, to be used for hire or pay, shall be five dollars for each table or alley; provided, that no license to keep a billiard table shall be issued to any minor or to any person who has been convicted for gambling.

Sec. 2434. Regulations, forfeiture. No person under the age of eighteen years shall be permitted to be or remain in or about any premises where licensed billiard or pool tables are had and operated, and no intoxicating liquor shall be allowed, furnished or possessed in such premises. In addition to these conditions the treasure shall have power to prescribe other regulations for the keeping of

billiard or pool tables and bowling alleys as he may deem necessary for the public good.

Any person violating the above conditions or any of the regulations so prescribed, shall be fined not more than two hundred and fifty dollars, and shall, in the discretion of the court, suffer a forfeiture of his license.

Sec. 2435. No fee for private use. Nothing in this chapter contained shall be construed as applying to any billiard table or bowling alley kept by any person for private use.

BUTCHER; BEEF, PORK

Sec. 2436. Fee to slaughter and sell. The annual fee for a license (a) to slaughter cattle and sell beef, or (b) to slaughter swine and sell pork, shall be ten dollars for each in each taxation district; provided, however, that any person may slaughter up to twelve head of cattle per year and sell such beef, or slaughter up to twelve swine per year and sell the pork, without a license therefor; provided such cattle or swine shall be of his own raising, and slaughtered on his own premises; but such person must comply with any city and county or county ordinances, relating thereto; and provided, also, that such person must comply with such rules and regulations of the board of health as may apply; and provided, further, that any person so slaughtering and selling beef without a license shall keep a full and accurate record concerning every animal killed as provided by section 2437.

Sec. 2437. Bond; records. Upon granting a license to slaughter cattle and sell beef, the treasurer shall exact from the licensee a bond in the penal sum of five hundred dollars, with good and sufficient surety, to be approved by the treasurer, conditioned with the licensee will keep a full and accurate record concerning every animal which he may purchase, kill or sell; and that he will at all times during regular business hours keep such record open for the inspection of all who may desire to examine the same. Such record shall contain: 1. the sex of the animal; 2. the brand or brands on the animal, stating the position on the animal, of such brand; 3. the principal color or colors of the animal; 4. the name of the person or persons who sold the animal to him; 5. the date when the animal was sold to him; 6. the date when the animal was delivered to him; 7. the date when the animal was killed.

Sec. 2438. Suit on bond; cancelation of license. The treasurer, or with his written consent, any person owning any animal purchased, sold or killed by any licensed butcher, concerning which a record as prescribed by section 2437 has not been kept, may prosecute such licensed butcher under his bond and recover thereon, for the benefit of the treasury, the sum of not less than five dollars nor more than fifty dollars for each item by said section required to be entered in such record which is omitted therefrom, or which is entered therein incorrectly; and the license of such butcher may, in the discretion of any judge or court, be canceled.

Sec. 2439. Fee to sell beef or pork. The annual fee for a license to sell beef or to sell pork shall be five dollars for each in each taxation district.

## COLLECTION AGENCIES

Sec. 2440. Fee; bond; display of license. Any person, except attorneys at law licensed to practice in any of the courts of the Territory, conducting a mercantile or collection agency or commercial bureau or engaged in the business or occupation, either exclusively or partially, of collecting money due on accounts or other forms of indebtedness for a commission or a portion of the sums so collected, shall pay an annual license fee of ten dollars.

Every person, before receiving a license as a collector as defined in this section, shall give a bond to the treasurer issuing such license, in the penal sum of three thousand dollars, if the license is for the city and county of Honolulu, and in the penal sum of one thousand dollars for other counties, with good and sufficient sureties to be approved by the treasurer, conditioned:

1. That he will faithfully, promptly and truly account for and pay over to the owners thereof all moneys collected by him, less charges;
2. That he will satisfy all judgments and decrees which may be recovered against him in any action or proceeding to recover money collected by him and not remitted to the owner thereof as herein required.

Such license shall be plainly displayed in the office or place of business of the holder thereof.

Sec. 2441. License good where. A license issued in one country or in the city and county shall entitle the holder thereof to carry on his business throughout the Territory, provided he maintains his principal office in the county or city and county in which the license is issued.

Sec. 2442. Suit on bond. The treasurer, or any person claiming to have sustained damage by reason of the failure of any licensed collector to account for moneys collected by him, or otherwise to comply with the provisions of his bond, may bring action on such bond and recover thereon any actual loss caused to him or sum due to him by reason of any default of the collector. Whenever any such action shall be brought, it shall be lawful to join as parties defendant, the sureties on the bond of the collector, and their separate estates may be sequestered by process of attachment to answer for such judgment as may be obtained; and similarly, execution may issue against their separate estates; and the license of the collector may, in the discretion of any judge or court, be canceled.

## DETECTIVES; PRIVATE

Sec. 2443. License as private detective, definition. No person shall engage in the business of private detective for hire or reward without having first obtained a license so to do from the treasurer of the county or city and county wherein such person intends to carry on such business. A "private detective" includes any person who shall engage in the business of securing or furnishing information as to the personal character or actions of any person, or as to the character or kind of business or occupation of any person.

Sec. 2444. Application, fee, bond. Any person desiring to engage in the business of private detective shall file with the treasurer of the county or city and county wherein he intends to carry on such business his written application for the license referred to in section 2443, which application shall be accompanied by certificates of not less than four reputable citizens vouching for the

good character and integrity of the applicant. When satisfied that the applicant is a person of good character and integrity, the treasurer shall issue a license to such applicant upon the payment of an annual license fee of twenty-five dollars. Before the applicant shall be entitled to such license he shall give to the treasurer issuing the same a bond in the penal sum of two thousand dollars, with a surety company authorized to do business under the laws of the Territory as surety thereon, the sufficiency of such surety to be approved by the treasurer, conditioned for the faithful and honest conduct of such business by the applicant. The license shall be plainly displayed in the office or place of business of the holder thereof.

Sec. 2445. Suit on bond. Any person claiming to have sustained damage by reason of the failure, default, or misconduct of any licensed private detective or the failure of such detective to comply with the provisions of his bond may bring action on such bond and recover thereon any loss caused to him by reason of any such failure, default or misconduct. Whenever any such action shall be brought, it shall be lawful to join as parties defendant the sureties on the bond.

Sec. 2446. Penalties, forfeiture when. Every person who violates the provisions of section 2443 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred and fifty dollars or by imprisonment for a term not exceeding one year or by both fine and imprisonment.

Every person holding a license to engage in the business of private detective who is convicted of a felony or a misdemeanor involving moral turpitude shall forfeit his license and shall not be entitled thereafter to receive a similar license.

Sec. 2446 A. Restrictions on appearance of uniform and badge. No person licensed to do business as a private detective under sections 2443 and 2444 of the Revised Laws of Hawaii 1935, nor any person employed by him in connection with said business, shall wear any uniform or badge which shall simulate the appearance of the uniforms or badges worn by the police of Honolulu or of the several counties.

Sec. 2446 B. Penalty. Any person violating the provisions of section 2446 A. of this Act shall upon conviction thereof be punished by a fine of not more than five hundred dollars (\$500.00).

#### EMIGRANT AGENTS

Sec. 2447. Defined. Any person who individually or acting through or for another or others, is engaged in soliciting, inducing, procuring or in hiring laborers to go beyond the limits of the Territory, whether under promise of employment or otherwise, shall be deemed an emigrant agent within the meaning of sections 2447-2455.

Sec. 2448. Conditions of license. No person shall engage in business as an emigrant agent without first obtaining a license from the treasurer of each county or city and county in which such business is entered into or carried on. No such license shall be issued until the applicant therefor shall have complied with the following conditions:

1. He shall file with the treasurer a sworn statement of the person or persons employing him and the place to which it is proposed that laborers shall be sent or taken and of the nature, terms and conditions of the employment or inducements to be given laborers he may recruit.

2. He shall file with the treasurer a bond in the penal sum of twenty-five thousand dollars running to the treasurer and his successors in office conditioned that he will in all respects comply with the provisions of sections 2447-2455 and that he will satisfy any judgments which may be rendered against him in

any action either at common law or under statute for enticing, inducing or persuading laborers from their employers or for inducing laborers to break their contract of employment.

3. He shall pay an annual license fee of five hundred dollars.

Every such license shall be issued subject to all rules, regulations, conditions and restrictions which may be subsequently imposed by law.

Sec. 2449. Register of laborers recruited. Every emigrant agent shall, before any laborer recruited by him leaves the Territory, register in the office of the treasurer the name, age, nationality of each laborer recruited by him, the name and address of the last employer of such laborer, and the date and cause of his leaving his employment, together with a statement of the proposed place of employment, if any, the nature, terms and conditions of the employment promised and inducements offered to the laborer, together with the certificate of some person qualified as an interpreter that the statement has been by him read to the laborer in the language of his nationality. A charge of fifty cents shall be made for each name so registered.

Sec. 2450. Bond by agent. Every emigrant agent shall give a bond in the sum of one hundred dollars to each laborer recruited by him conditioned for the faithful performance of any contract or promise made with or given to any laborer so recruited. A duplicate original of each bond shall be filed in the office of the treasurer before the laborer leaves the Territory, together with a receipt of the laborer showing that such bond has been delivered to him.

Sec. 2451. Recruiting minors. No emigrant agent shall recruit and take away from the Territory any minor without the written consent of the parents or guardian of the minor, and in case the minor has no parent or guardian, then of the attorney general of the Territory, and the emigrant agent shall file such written consent in the office of the treasurer.

Sec. 2452 . Laborers under contract. No emigrant agent shall induce, entice or persuade or attempt to induce, entice or persuade any servant or laborer who shall have contracted, either orally or in writing, to serve his employer for a specific length of time, to leave the service of the employer for the purpose of leaving the Territory during the term of such service, without the consent of the employer, nor shall he aid or abet any such servant or laborer in leaving such service and the Territory during the term thereof, without the consent of the employer.

Sec. 2453. Bonds approved by treasurer. Any bonds given or required under the provisions of sections 2447-2455 shall be subject to approval both as to form and sufficiency by the treasurer, but no such bond shall be approved unless there shall be at least two sureties upon the same, each of whom shall be a resident and freeholder within such county or city and county and shall justify before the treasurer as worth in real estate situate in such county or city and county the amount of such bond over and above all sums for which such surety is liable. For the purpose of inquiring into the sufficiency of such sureties, the treasurer is authorized to administer oaths and to examine under oath persons offering themselves as such sureties.

Sec. 2454. Breach of bond. In case of any breach of condition of any bond given under the provisions of sections 2447-2455, the treasurer may, and upon

demand and the receipt of satisfactory assurances for payment of costs, shall enforce such bond either in his own name or in the name of any person as obligee therein by appropriate proceedings in any court of competent jurisdiction for the use and benefit of any person injured by such breach.

Sec. 2455. Penalties. Any person who shall engage in business as an emigrant agent, without first obtaining a license as in sections 2447-2455 provided, or who shall violate any provision of said sections, shall be guilty of a misdemeanor, and upon conviction shall forfeit his license, if he has one, and shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or by both fine and imprisonment.

#### EMPLOYMENT AGENCIES

Sec. 2456. Fee. Every person conducting an employment or intelligence office or advertising as an employment or intelligence agent shall pay an annual license fee of ten dollars.

#### EXPLOSIVES, SALE OF

Sec. 2457. Permit. It shall be unlawful for any person to sell, trade in or deliver any dynamite, or any other similar explosive, to any other person who has not secured a permit from the sheriff of the county or the chief of police of the city and county in which the explosive is intended to be used, and it shall be unlawful for any person other than any dealer in explosives who has the same in possession at his place of business for the purpose of sale, to have any dynamite or other similar explosive in his possession, unless such person holds a permit therefor from such sheriff, or the chief of police, or is using such explosive under the direction of a person who holds such permit therefor and for the purposes for which the explosive was obtained.

Sec. 2458. Prohibited, when; punishment. It shall be unlawful for any person to sell giant powder to any minor who has not attained the age of sixteen years. Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment not to exceed six months, or by both fine and imprisonment.

Sec. 2459. Character and use; application; permit. The sheriffs of the counties or their deputies or the chief of police in the city and county shall issue to applicants complying with the provisions of this section permits to purchase explosives, to be used within their respective jurisdictions. Applications therefor shall be made in writing upon blanks to be presented by such officers, showing the name and address of the person applying for such permit, the locality or localities wherein the explosive is to be used, the nature of the work to be done, and facts showing a reasonable necessity for the use of such explosive, and the amount of explosive estimated to be reasonably necessary for such work. Permits shall be made out in triplicate; the original and duplicate shall be delivered to the applicant, and the triplicate shall be retained by the officer issuing the permit. Upon the purchase of explosives under such permit, the original shall be delivered to the person from whom the explosive is obtained, and the duplicate shall be held by the person obtaining such explosive until the same has been entirely used and consumed.

Sec. 2460. Report by dealer. Every dealer in explosives shall submit a

quarterly report within ten days after the last day of every third month of the calendar year, to the sheriff of the county or to the chief of police of the city and county in which such dealer does business, giving the name of each purchaser of explosives during the preceding quarter, and the amount of explosives sold to each purchaser, accompanied by the permits authorizing such sales, and every person who has obtained any explosive under a permit shall report to the officer from whom his permit was obtained, within ten days after the end of each month, the amount of explosives remaining on hand at the end of each such month until the same has been entirely used and consumed.

Sec. 2461. Violations, penalties. Any person violating any of the provisions of this subtitle shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for a term not less than ten days or more than one hundred days, or by both fine and imprisonment, and one-half of the moneys collected from any fine shall be paid to the person assisting in the arrest and conviction of the violator.

#### FISHING AND HUNTING

Sec. 2462. Fish and game licenses; required, exceptions. Every person who hunts, pursues or kills any wild birds or animals or who takes, catches or fishes for any introduced fresh water game fish without first procuring a hunting or fishing license, as provided by this subtitle, is guilty of a misdemeanor; provided, however, that employees of, or persons who may qualify for permits to assist the board of commissioners of agriculture and forestry to get rid of live stocks injurious to forest growth, shall not be required to procure a hunting license for this purpose.

Sec. 2463. Licenses; issuance; application. Licenses, granting the privilege to hunt game, or to catch any introduced fresh water game fish, as well as license buttons furnished by the Board of Agriculture and Forestry, bearing in bold letters the name of the county followed by the words "COUNTY HUNTING" or "FISHING LICENSE" and the year for which it is issued which said button shall be made so that same may be firmly attached to the outer clothes of the licensee, shall be issued and delivered by the treasurer of any of the counties, or by the Board of Commissioners of agriculture and forestry, or its appointed agents, upon application, which application must state the name and address of the applicant, his age, nationality, height, weight and color of hair and eyes, and upon the payment of the license fee fixed by law.

Sec. 2464. Expiration, forfeiture, etc. All licenses shall expire on June 30 of each year, excepting that where any one is convicted of violating any of the fish and game laws his license shall immediately be forfeited, and anyone convicted for a second offense shall not again be granted a license to fish or hunt.

Sec. 2465. License fees. License fees shall be as follows: For a bona fide citizen and resident of the Territory, five dollars for a county hunting license and two dollars and fifty cents for a fishing license; for a citizen non-resident of the Territory, or to an alien who has declared his intention of becoming a citizen according to law, ten dollars for a county hunting license and two dollars and fifty cents for a fishing license; and for an alien, twenty-five dollars for a county hunting license and five dollars for a county fishing license;

excepting that no alien shall be issued a hunting license without his first having procured a license to own or use a gun.

Sec. 2466. Duplicate licenses. Duplicate licenses and buttons shall not be issued to any person for the same fiscal year, unless the applicant shall pay twenty-five cents and furnish an affidavit that the one issued has been lost or destroyed, and no license or button issued as herein provided shall be transferred to or used by any person other than the one to whom it was issued.

Sec. 2467. License to be carried. Every person having a license must carry the same with him, and also wear the license button in a conspicuous place on the front of an outer garment, cap or hat when hunting or fishing, and must show the license upon the demand of an officer authorized to enforce the law of the Territory, and anyone who refuses to show his license or to turn out the contents of his game bag or the pockets of his coat, or to open any carrier or container where game or fish might be concealed, upon demand of the officer, shall be guilty of a misdemeanor.

Sec. 2468. Disposition of fines. Every person violating any of the provisions of this subtitle, shall upon conviction thereof be punished by a fine of not more than two hundred dollars or by imprisonment for not more than sixty days, or by both fine and imprisonment. One-half of all moneys collected from such fines shall be turned over to the person assisting in the arrest and conviction of the violator.

#### FISH TRAPS, POUNDS AND WEIRS.

Sec. 2469. License to operate fish trap, etc., in sea fishery of Territory. No person other than citizens of the United States shall be allowed to place, set or operate fish traps, pounds or weirs in any location of the sea fisheries of the Territory; provided, however, that the placing, setting or operation of fish traps, pounds or weirs, shall not be in conflict with any of the provisions of section 375.

The treasurer of any county or city and county is authorized and empowered upon the payment of an annual fee of five dollars to issue licenses to any citizen applying as an operator of fish traps, pounds or weirs, for the license period as provided in this chapter.

No citizen of the United States fishing solely for his own home consumption, who does not sell any part of his catch, shall be required to pay any license fee for the placing, setting or operation of fish traps. Provided, however, such citizen shall be required to register as such operator of fish traps with the treasurer of any county or city and county in which he resides.

Sec. 2470. Penalty. Any person who shall place, set or operate fish traps, pounds or weirs in any location of the sea fisheries of the Territory without first complying with section 2469 shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine not to exceed fifty dollars.

## FOOD PRODUCTS

Sec. 2471. Conditions of license; fee; not applicable to poi. No person shall manufacture, compound or otherwise prepare any confections, cakes, bread stuffs or other food products intended for sale and for human consumption in any shop or premises without first obtaining from the treasurer of the county or city and county where such shop, building or other premises are located, a license. No such license shall be granted to any person by the treasurer until he shall have first received a certificate from the board of health stating that, after an examination made, it appears that such shop, building or other premises are in a sanitary and fit condition for the manufacture, compounding or otherwise preparing such food products; and when issued the license shall contain, among other things, a condition that the shop, building and premises shall be kept in a good sanitary condition in accordance with law and with the orders of the agent of the board of health, and that the agents of the board of health may have at all times access thereto for the purposes of inspection. The annual fee for such a license shall be the sum of ten dollars.

Nothing in this section and the following section shall be construed to include the manufacture and sale of poi or paiai.

Sec. 2472. Penalty. Any person who shall have, keep or maintain any such shop, building or other premises, or shall manufacture, compound or otherwise prepare upon any such shop, building or other premises any confection, cake, bread stuff, or other food products without first obtaining a license under 2471, or who, holding a license, shall violate or fail to observe any of the requirements or conditions of said section, or of his license shall, upon conviction, be fined not less than ten or more than one hundred dollars, and the court having jurisdiction thereof may cancel his license.

## LAUNDRY, ETC.

Sec. 2473. Conditions, fee. The treasurer may issue to any person, a license to maintain and operate a laundry, dyeing or cleaning or dyeing and cleaning works upon such conditions as to location and otherwise as shall be set forth in the license. No license shall be issued except upon a certificate of the board of health setting forth that the location at which it is proposed to operate such laundry, dyeing or cleaning or dyeing and cleaning works is suitable for the purpose. The annual fee for a license for either a laundry, dyeing or cleaning or dyeing and cleaning works shall be ten dollars; provided, however, that the provisions of this section shall not apply to laundries operated for profit, where not more than two persons are engaged, including the proprietor of such laundry, and conducted in compliance with the rules and regulations of the board of health; and provided, further, that this section shall not apply to laundries conducted in compliance with the rules and regulations of the board of health by persons in their own homes for members of their household only.

## LODGING OR TENEMENT HOUSES, HOTELS, BOARDING HOUSES AND RESTAURANTS

Sec. 2474. Fee, lodging or tenement house. The annual fee for a license to keep a lodging or tenement house shall be two dollars.

Sec. 2475. Fee, hotel and boarding houses. The annual fee for a license to keep a hotel and boarding house shall be ten dollars. A hotel or boarding house, under this section, shall mean a building or buildings having at least ten rooms for the accommodation of guests.

Sec. 2476. Fee for restaurant. The annual fee for a license to keep a restaurant shall be ten dollars. A restaurant, under this section, shall mean a building in which meals are furnished as the principal business for pay. No bedrooms or sleeping accommodations for hire shall be allowed on the premises of such restaurant.

Sec. 2477. Certificate, board of health. No license shall be issued for a lodging or tenement house, hotel, boarding house or restaurant, until the applicant shall secure from the board of health and present to the treasurer a certificate setting forth that an agent of the board has examined the house or houses, proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purposes; and, if the application is for a license for a lodging or tenement house, hotel or boarding house, stating the number of persons who, by law, can be lodged therein.

Sec. 2478. Conditions of license. A lodging or tenement house, hotel, boarding house, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license, viz.:

1. That the licensee shall not keep a noisy or disorderly house;
2. That no prostitute shall be allowed to reside therein or resort thereto;
3. That no intoxicating liquor shall be furnished or sold therein, except as authorized by law;
4. That no more persons shall at any time be lodged therein than are permitted by the license;
5. That the buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the board of health;
6. That the police and agents of the board of health shall at all times have access thereto for purposes of inspection;
7. That no gaming shall be allowed therein.

Sec. 2479. Penalties. Any person who shall keep a lodging or tenement house, hotel, boarding house or restaurant without a license under this chapter, or who, holding a license, shall violate or fail to observe any of the requirements or conditions of this chapter or of his license, shall be fined not less than ten nor more than one hundred dollars, and the court may cancel his license.

Sec. 2480. No fee for private boarders. Nothing in this chapter contained shall be construed to prevent a private family from incidentally taking not more than seven boarders or lodgers without taking out a license thereunder.

Sec. 2481. Hotels without licenses, when. The treasurer may also, in his discretion, permit hotels at which both meals and lodgings are furnished, at points other than in Honolulu, where they are a public convenience, to be carried on without a license under this chapter.

#### MILK

Sec. 2482. Fee. The annual fee for a license to sell milk shall be two dollars and fifty cents; provided, however, that any person having no more than two milch cows may sell the milk from such cows without a license therefor; but such person must comply with all city and county or county ordinances relating thereto; and provided also such person must comply with such rules and regulations of the board of health as apply.

Sec. 2483. Selling adulterated milk; penalty. Any person who shall sell, or offer for sale, any milk which has been adulterated by the addition of water or other substance; or from which the cream has been skimmed or separated, unless the same is specifically and openly stated to be skimmed milk, shall be fined not more than fifty dollars.

Sec. 2483 A. Bottled milk; capping. No person shall sell or offer for sale, milk in bottles, whether graded or ungraded, unless said bottle shall be tightly capped with a cap bearing legibly stamped, printed or written thereon the name of the person bottling said milk and the grade of said milk if the same is graded, or the word "ungraded", if said milk is ungraded. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00).

Sec. 2484. Inspection, testing, confiscation. Any police officer or agent of the board of health shall have power to inspect and test any milk sold or offered for sale, and to confiscate any adulterated milk which he may find.

#### NOTARIES PUBLIC

Sec. 2485. Fee. The annual fee for a license to act as notary public shall be ten dollars for Honolulu and five dollars for the first judicial circuit outside of Honolulu and five dollars for each of the other judicial circuits.

#### OUTDOOR ADVERTISING

Sec. 2486. Definition. The term "outdoor advertising" as used in sections 2486-2491 shall include all advertising so displayed as to attract the attention of persons on any public highway or while in a vehicle of a common carrier, or in any station, public building, park or other public place, whether such advertising be by means of printing, writing, painting, picture or a combination thereof, and whatever be the means of display, except that it shall not include advertising located upon private property and relating exclusively to the business conducted on such property or the sale or rental thereof.

Sec. 2487. Fee. Every person engaging in outdoor advertising in the city and county or in any county shall pay into the treasury thereof an annual license fee in accordance with the following schedule: city and county of Honolulu, \$250.00; county of Hawaii, \$100.00; county of Maui, \$100.00; county of Kauai, \$100.00.

Such license shall be conditioned upon the maintenance of all advertising devices in a safe condition, and the keeping and observing of the provisions of sections 2486-2491, and may be revoked by the treasurer for a violation thereof.

Sec. 2488. Prohibited when. No person shall display any outdoor advertising except upon billboards or sign and bulletin boards or walls erected, owned or leased by him, and no person shall paste, post, paint, print, nail or otherwise fasten any handbill, sign, poster, advertisement or notice of any kind whatsoever or cause the same to be done on any curbstone, block, stone or portion or part of any sidewalk or street, upon any tree, lamp post, hitching post, telegraph, telephone or electric light pole, hydrant, bridge, pier, or upon any public structure, and no person shall so paint or affix any outdoor advertising upon any private wall, window, door, gate, fence or other private structure or building unless he is the owner thereof, without the written consent of the owner or other person in control thereof first obtained. These restrictions, however, shall not apply to any order, decree or writing by law or by order of any court required to be posted on any place whatsoever. The finding of any bill, sign, poster, advertisement or notice in any way advertising any person, so painted or affixed to any public or private structure or building, shall be prima facie evidence that the same was affixed by the person, so advertised.

Sec. 2489. Advertising certain medicines. No person shall display any outdoor advertising giving or purporting to give information from whom or where medicines may be obtained for the cure, prevention or treatment of diseases peculiar to females, venereal diseases or impotence, sterility, gonorrhoea, gleet, stricture, syphilis, abortion or miscarriage, or articles or means of preventing conception, or containing pictures or illustrations of an immoral character.

Sec. 2490. Construction of billboards. All billboards, sign boards and structures of any kind erected or maintained for the posting, painting or affixing thereon of outdoor advertising shall be so constructed that the same shall be reasonably secure, and shall otherwise conform to such regulation as may be imposed by ordinances of the city and county and the respective counties.

Sec. 2491. Penalty. Any person who shall violate or fail to observe any of the terms of sections 2486-2490, shall be guilty of a misdemeanor, and upon conviction thereof, be fined in a sum not less than fifty dollars or more than two hundred and fifty dollars for each offense.

#### PAWNBROKERS-

Sec. 2492. Defined. Every person who shall advance for interest or for or in expectation of profit, gain or reward any sum of money upon security of any goods or chattels whatsoever, taken by such person by way of pawn or pledge, shall be deemed and taken to be a pawnbroker within the meaning of sections 2492-2497; provided, that nothing therein shall be held or construed to apply to loans or advances made on any goods or chattels, bonds, bills, or other security taken by merchants, bankers, commission agents or auctioneers in the ordinary and bona fide course of mercantile or banking transactions.

Sec. 2493. Fee. The treasurer may grant licenses for the period of one year, to suitable persons to carry on the business of pawnbroking upon payment of the sum of fifty dollars.

Sec. 2494. Conditions of license. Every license shall be issued upon these express conditions which shall be set forth in the licenses:

That the licensee will not charge or receive interest at more than the rate of four per centum per month for any loan under twenty dollars, nor at more than the rate of two per centum per month for any loan above twenty dollars and under one hundred dollars, nor at more than the rate of one per centum per month for any loan above one hundred dollars, nor exact any other gain, profit or reward by charging commissions, discount, storage or other charge, or by compounding interest or by any device increasing such interest.

That the licensee will not sell any article pledged to him and unredeemed within six months after the last day fixed by contract for redemption, nor make any such sale without publishing at least twice in a newspaper published in the city and county or county where he does business, or if there is no such newspaper, then in a newspaper published in Honolulu in English, at least ten days, and not more than thirty days, before such sale a notice describing such article, and specifying the time and place of sale.

That the licensee will disclose to the pledgor or his agent the name of the purchaser and the price received by him for any article so pledged and sold.

That he will keep a book in which shall be written the date, duration, amount, rate of interest of any loan made by him, an accurate description of the property pledged, and the name and residence of the pledgor, a copy of which record shall be delivered to the pledgor. A record of all sales made shall also be entered in such book. No entry in such book shall be erased, mutilated or changed.

That he will make out and deliver to the sheriff of the county or the chief of police of the city and county in which he carries on business, on or before twelve o'clock noon of the last business day of each week, a true and correct copy of all the entries hereinabove required to be made by him in such book concerning his transactions for that week and for the period since his last preceding report, which record shall be preserved by the chief of police or the sheriff and shall be open to the inspection of any person upon satisfactory showing to the chief of police or the sheriff that such inspection is desired for a proper purpose.

That he will not receive any article by way of pawn or pledge from any minor, knowingly or with reason to believe such person a minor.

That the books of such licensee, all accounts of sales, the licensed premises and all articles therein may at any time be examined by the chief of police or the treasurer or by any sheriff or deputy sheriff, or by any person presenting to such licensee a written authorization so to do from the chief of police or the treasurer or sheriff or deputy sheriff.

That he will forthwith notify the chief of police or the sheriff or deputy sheriff of the district wherein he carries on business of any offer made by any person to pledge any articles which the licensee has reasonable cause to suspect have been stolen.

The omission of any of the foregoing conditions from the license shall not relieve the licensee from the obligation to comply with the provisions of this section.

Sec. 2495. Conduct of auction. In case any pawnbroker shall sell or cause to be sold at public auction any articles pawned or pledged to him, the person conducting such auction shall, in describing any such article, be truthful with respect to the character, quality, kind and description of the same, and such descriptions shall, for the purpose of such sale, be considered as warranties. It shall be unlawful for any pawnbroker to sell at any auction except upon compliance with section 2418, any personal property other than goods or chattels which have been received by bona fide pledge or pawn or in trade or retrade for goods or chattels pledged or pawned. No auction sale of pledged or pawned chattels shall be held except on the day or days set forth in the pawnbroker's published notice and no articles shall be offered except the articles set forth and described in such published notice. The published notice shall include the date of pledge and a description of each article. The person conducting such auction shall announce the date of publication of notice of sale for each article offered before offering such article for sale. Failure to make such announcement shall be deemed prima facie evidence of failure to comply with this section. Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or both.

Sec. 2496. Acting without license; penalty. Any person who carries on the business of pawnbroker except by authority of the license provided for in sections 2492-2494 shall be liable upon conviction to a fine not exceeding three hundred dollars.

Sec. 2497. Breach of condition; penalty. Every licensed pawnbroker who shall fail to comply with any of the conditions mentioned in section 2494 shall upon conviction be liable to a fine not exceeding three hundred dollars and shall forfeit his license.

#### PEDDLERS

Sec. 2498. Fees. The fee for license to peddle merchandise shall be as follows:

The fee for an annual license shall be \$100.00; and the fee for a quarterly or three months' license or period less than three months shall be \$30.00; provided, that no license shall be required of persons peddling fish, fresh, fruit, leis, flowers or vegetables, nor of any person who is a citizen of the Territory and who has reached the age of seventy years.

A license to peddle merchandise shall authorize the holder thereof to peddle only in the county or city and county which is named in the license.

Sec. 2499. Itinerant vendors of medicines. It shall be unlawful to vend, by peddling or itinerant sale, any remedies or medicines without first obtaining a written permit from the board of health and securing the necessary license. Any person who shall violate the provisions of this section shall, upon conviction, be punished by a fine of not more than five hundred dollars, or by imprisonment for a term of not more than one year, or by both fine and imprisonment.

#### PEDDLING CAKE

Sec. 2500. Fee; locality. The annual fee for a license to peddle cakes shall be ten dollars. A license to peddle cake shall authorize the holder to ped-

de only in the county or city and county which is named in the license.

#### POISONOUS DRUGS

Sec. 2501. Fee. The annual fee for a license to sell poisonous drugs shall be fifty dollars; provided, however, that no fee or license shall be required for the sale, distribution or compounding of poisonous substance authorized under the provisions of section 1410.

Sec. 2502. Penalty. Any person who shall sell or furnish any poisonous drugs without a license so to do; or who shall violate any of the terms of this subtitle for which a penalty is not specifically provided shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned not exceeding six months.

Sec. 2503. Sale, etc., by board of health. Nothing in this subtitle contained shall be construed to prevent the Territory or the board of health from using or distributing any drugs, or medicine.

#### PUBLIC SHOWS

Sec. 2504. Conditions. The treasurer or the sheriffs in their respective counties or city and county may license for any term, not exceeding one year, any theater, circus, public show, lecture, moving picture show, or any exhibition, not of an immoral character, to which an admission fee is charged, or during which a fee is collected upon such conditions as he or they may deem reasonable.

Sec. 2505. Fee. Except as provided in section 2506, the fee (a) for a license to give any such performances or exhibitions in any one permanent structure at a fixed location shall be twenty-five dollars per year or any lesser period, and (b) for a license to give moving picture shows under canvas or in a temporary structure shall be twenty-five dollars per year or any lesser period and in addition thereto one dollar for each performance or exhibition; provided, that this section shall not be held to authorize the holding of any such performances or exhibitions on Sundays, except upon compliance with the provisions of county or city and county ordinances passed pursuant to sections 3021 or 2833.

Sec. 2506. Fee for carnivals, etc. The fee for each performance under the license provided in section 2504 shall be fifteen dollars per day for carnivals, circuses, amusement parks and itinerant shows (other than moving picture shows) under canvas or in temporary structures, except that such carnivals, circuses, amusement parks and itinerant shows may be charged a yearly license of one hundred dollars each in lieu of the daily fee herein prescribed; provided, however: (1) that no license or fee shall be required or charged for territorial, county or city and county fairs; and (2) that no fees shall be charged if the treasurer or sheriff is satisfied that the entire proceeds of the performance or exhibition are to be donated to any school, religious or charitable institution, or for the promotion of art, and not for profit.

Sec. 2507. Police regulations. The police authorities shall have the right to be present at and regulate any performance licensed under sections 2504, 2505, in such manner as may be reasonably necessary for the preservation of order, decorum and the public peace or morals.

Sec. 2508. Penalties. Any person who shall set up, promote, exhibit or take part in any theater, circus, public show, lecture or exhibition, without a license authorizing the same first having been obtained in accordance with the terms of sections 2504-2507; or who, having obtained a license, shall violate any of the conditions thereof, or who shall misrepresent to the treasurer the character of the performance or exhibition to be given, with a view of obtaining a remission of the license fee, or for any other purpose; or who, having obtained a license, shall give any obscene, indecent or immoral performance or exhibition, or any performance or exhibition other than the one or ones authorized in such license, shall be fined not less than ten dollars nor more than one hundred dollars, or imprisoned for not more than six months, and if he has a license, his license shall be canceled.

#### SECOND-HAND DEALERS

Sec. 2509. Fee, conditions. The treasurer may grant licenses to suitable person to be dealers and traders in second-hand articles, and may revoke such licenses for cause satisfactory to him; such licensee shall pay to the treasurer an annual fee of ten dollars.

Every license granted under this section shall designate the place where the business shall be carried on and shall continue for one year unless sooner revoked. Every dealer shall keep a book in which shall be written a description of every article received, the name, residence and a general description of the person from whom, and the time and hour when such article was received; the book, the place where the business is carried on and the articles of property therein, may be examined at any time by the treasurer, the sheriff or deputy sheriff, the chief of police, or by any person presenting to such dealer a written authorization so to do from the treasurer, or the sheriff, deputy sheriff, or chief of police.

Sec. 2510. Prohibitions; penalty. Every person who engages in the business of buying or selling second-hand articles, or who deals therein, unless licensed therefor according to law, or after notice that his license has been revoked, or who, being licensed, neglects to keep the book and make the entries therein prescribed in the preceding section, or who refuses to allow the inspections in said section prescribed, or who purchases or receives by way of exchange any article from any minor, knowing or having reason to believe that such person is a minor, shall, on conviction thereof, be fined not more than one hundred dollars.

Sec. 2511. Transfer of business; cancellation of license. If any licensee under sections 2509-2511, shall close out, transfer, or assign the business for which a license is held, during the term for which the same was issued, he shall, within thirty days from the date of such closing out, transfer or assignment, notify the treasurer of such fact in writing, and return the license to the treasurer for cancellation, under a penalty for failure so to do of one hundred dollars.

#### SOLICITORS

Sec. 2512. Definition. A solicitor within the meaning of this subtitle is defined to be any person who goes from house to house or from place to place selling or taking orders or offering to sell or take orders for goods, wares or merchandise or any article for future delivery or for services to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery; provided, however, that this subtitle shall apply

only to solicitors who demand, accept or receive payment or deposit of money in advance of final delivery.

Sec. 2513. Application. Any person desiring a license to engage as a solicitor shall make application therefor to the treasurer of the county or city and county in which he purposes to do business as such on forms to be provided stating the name and address of the applicant, the name and address of the person, firm or corporation which he represents and the kind of goods offered for sale or the kind of services to be performed. Such application shall be accompanied by a bond in the penal sum of five hundred dollars, with sufficient sureties qualified in accordance with the terms of section 160, conditioned upon the making of final delivery of the goods ordered or completion of the services to be performed in accordance with the terms of such order, or failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any such solicitor shall have a right of action on the bond for the recovery of money or damage or both. The bond shall remain in full force and effect for a period of ninety days after the expiration of any license.

Sec. 2514. Orders. All orders taken by licensed solicitors shall be in writing in duplicate stating the terms thereof and the amount paid in advance and one copy shall be delivered to the purchaser at the time of the taking of the order.

Sec. 2515. Fee. The fee for a license to carry on business as a solicitor shall be as follows:

Within the city and county of Honolulu: for a monthly license, \$20.00; for a quarterly license, \$50.00; for an annual license, \$200.00.

Within the counties of Hawaii, Maui and Kauai; for a monthly license, \$10.00; for a quarterly license, \$25.00; for an annual license, \$100.00.

Sec. 2516. Penalty. Any person who shall transact or conduct business as a solicitor before he shall have complied with the provisions of this subtitle, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment for not more than three months.

#### STEAM LAUNDRIES, HONOLULU

Sec. 2517. Issued by treasurer. The treasurer may issue to any person a license to erect, maintain and operate a steam laundry within the district of Honolulu, upon such conditions as to location and otherwise as shall be set forth in the license.

Sec. 2518. Certificate, board of health. Such license shall not be issued except upon the certificate of the board of health, setting forth that an agent of the board has examined the location at which it is proposed to operate the steam laundry, and that the same is suitable for the purpose.

Sec. 2519. Fee. The annual fee for such license shall be twenty-five dollars.

Sec. 2520. Regulations. Steam laundries shall be subject to such regulations as to sanitation as may be prescribed from time to time by the board of health.

## SURETY, BAIL BOND

Sec. 2521. Fee. Every person who, for compensation, acts as surety on any bail bond or bond to keep the peace shall pay an annual license fee of ten dollars; provided, however, that this section shall not apply to any person authorized to act as surety under the provisions.

Sec. 2522. Limit of compensation. The amount of compensation which may be collected on any bail bond or bond to keep the peace by one or more persons acting as sureties thereon shall not exceed five per centum of the amount thereof but need not be less than five dollars in any event.

Sec. 2523. Penalties. Every person who violates the provisions of section 2521 shall be guilty of a misdemeanor and upon conviction shall be fined a sum not exceeding two hundred and fifty dollars.

Every person holding a license to act as surety on any bail bond or bond to keep the peace who violates the provisions of section 2522 shall be guilty of a misdemeanor and upon conviction shall be fined a sum not exceeding two hundred and fifty dollars and shall forfeit such license and shall not be entitled to receive a similar license for a period of one year thereafter.

## TOBACCO, CIGARS AND CIGARETTES

Sec. 2524. Fee. The annual fee for a license to sell tobacco, leaf tobacco, cigars or cigarettes, shall be ten dollars. A grower of tobacco shall not be required to pay and shall be exempt from paying the annual fee of ten dollars for the sale by him of tobacco or leaf tobacco grown or produced by him or received by him as rent from tenants who have produced the same on his land; provided, that nothing in this section shall be construed to exempt any grower of tobacco from the annual fee of ten dollars who by peddling, or otherwise, sells tobacco, or leaf tobacco, at retail directly to consumers.

Sec. 2525. Not sell to minors. It shall be unlawful to sell or furnish tobacco in any shape or form whatsoever to minors under the age of fifteen years.

Sec. 2526. Penalty. Any person violating the provisions of section 2525 shall be punished by fine not exceeding one hundred dollars, and if such offense be committed by any dealer licensed to sell tobacco, such dealer after the second offense shall forfeit his license.

## VEHICLES AND DRIVERS FOR HIRE

Sec. 2527. Fee to carry baggage, freight; drive. The annual fee for a license to carry freight or baggage for hire or compensation on any dray, cart, wagon or other vehicle other than a hand cart, shall be two and a half dollars for each vehicle so used.

The annual fee for a license to drive any licensed vehicle shall be one dollar, and such license shall permit the licensee to drive any vehicle licensed under this section.

Sec. 2528. Fee to carry passengers. The annual fee for a license to carry passengers for hire in any vehicle, shall be one dollar for each person for

which such vehicle has a carrying capacity.

Sec. 2529. Certificate. Any sheriff or deputy sheriff of a county, or the chief of police of the city and county, or an inspector appointed by him for such purpose, shall, before any license is issued for any passenger vehicle, inspect the vehicle for which a license is requested, and if he finds the same to be in good serviceable and safe condition for safe transportation of passengers, he shall deliver to the applicant therefor, a certificate setting forth such fact, and the passenger capacity of such vehicle; provided, however, that nothing herein shall prevent such officers, or any inspector from temporarily suspending, or revoking the license issued upon such certificate, when, upon any subsequent examination of such vehicle, it is found to be unserviceable or dangerous and unsafe for the transportation of passengers; provided, further, that the treasurer of the county or city and county shall be given notice of such suspension or revocation. Such officer shall also examine any applicant for a driver's license, and if he finds such applicant to be a competent driver, he shall give him a certificate to that effect. No license shall be issued to any driver or for any passenger vehicle until the receipt by the treasurer of such certificate.

Sec. 2530. Number on vehicle; badge. The owner of a licensed vehicle shall continuously exhibit in a conspicuous place on every such vehicle, the number of the license issued for such vehicle. Every licensed driver shall wear, while employed, a badge which shall be supplied by the treasurer at cost, showing his number.

Sec. 2531. Number of passengers. No licensed vehicle shall convey at any one time a greater number of passengers than the capacity enumerated in its license.

Sec. 2532. Penalties. Any person who shall convey any passenger or freight for hire in any unlicensed vehicle, or who shall allow an unlicensed vehicle owned by him to be used for such purposes, or who, having a license, shall use any vehicle, harness or animal which is not in good and serviceable condition, or who shall drive a licensed vehicle without a driver's license, or who shall knowingly allow a licensed vehicle owned by him to be driven for hire by an unlicensed person, or who shall violate or fail to observe any of the requirements of sections 2527 to 2532, inclusive, shall be fined not more than twenty-five dollars for each violation and the license of any licensed vehicle or driver may, in the discretion of the court be canceled.

## CHAPTER 81.

### FIREARMS AND AMMUNITION

Sec. 2540. Definitions. As used in this chapter: "Firearm" means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and sub-machine guns. The specific mention herein of certain weapons does not exclude from the definition other weapons operated by explosives.

"Crime of violence" means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in sections 5653 and 5654.

"Pistol" or "revolver" means any firearm of any shape whatsoever with

barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas.

Sec. 2541. Registration, mandatory. Every person residing or doing business or temporarily sojourning within the Territory on January 9, 1934, who possessed a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, not already registered in the name of the present possessor, or who possessed ammunition of any kind or description, except shotgun ammunition shall, within ten days of that date, register the same with the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county, wherein in his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Every person arriving in the Territory, who brings with him firearms or ammunition of any type and description, shall register the same in similar manner within forty-eight hours after arrival.

The registration shall be on such forms as may be designated by the bureau of crime statistics and shall include a description of the class of firearm or firearms and ammunition owned by him, or in his possession, together with the name of the maker and the factory number, if known or ascertainable, and the source from which possession was obtained.

Within ten days after the end of each month the chief of police of the city and county of Honolulu and the sheriffs of the several counties, other than the city and county, shall furnish to the bureau of crime statistics duplicate copies of all registrations made during the preceding month.

No fee shall be charged for such registration.

Any person who fails to comply with the provisions of this section shall be punished by a fine of not more than two hundred and fifty dollars.

Sec. 2542. Registration by transfer; permits to acquire; penalty. No person shall take possession of any firearms of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or unregistered, or of any ammunition of any kind or description, except shotgun ammunition, either through sale, gift, loan, bequest, or otherwise, whether procured in the Territory or imported by mail, express, freight, or otherwise, until he shall first have procured from the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county, wherein is his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn, a permit to acquire as prescribed herein. The chief of police of the city and county of Honolulu or the sheriffs of the several counties, other than the city and county, are authorized, within their discretion, to issue permits, within their respective jurisdictions, to acquire rifles, pistols, and revolvers to citizens of the United States, of the age of twenty years or more, and to duly accredited official representatives of foreign nations. Permits to acquire ammunition for rifles, pistols and revolvers acquired prior to January 9, 1934, and registered in accordance with the provisions of this chapter, may be granted persons of the age of twenty years or more irrespective of citizenship. Permits to acquire shotguns may be granted to persons of the age of sixteen years or more, irrespective of citizenship.

Applications for such permits shall be signed by the applicant upon forms to be specified by the bureau of crime statistics, and shall be signed by the issuing authority. One copy of such permit shall be retained by the issuing authority, as a permanent official record. Such permit shall be void unless used within ten days after the date of issue. In all cases where possession is acquired from another person in the Territory the permit shall be signed in ink by the holder thereof and shall thereupon be delivered to and taken up by the person selling, loaning, giving or delivering the firearm or ammunition, who shall make entry thereon setting forth in the space provided therefor the name of the person to whom the firearm or ammunition was delivered, and the make, style, caliber, and number, as applicable. He shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of such firearms or ammunition is had by mail, express, freight, or otherwise, from sources without the Territory, the person to whom such permit has been issued, shall make the prescribed entries thereon, signed in ink, and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearms or ammunition. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with the provisions of this section.

Any person acquiring a firearm or ammunition under the provisions of this section shall, within five days of acquisition, register same in the manner prescribed by section 2541.

No fee shall be charged for permits under this section.

Any person who violates any provision of this section shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than one year, or by both.

Sec. 2543. Possession by licensed hunters. Any person who has procured a hunting license under the provisions of sections 2463-2468, inclusive, shall, while actually engaged in hunting or while going to and from the place of hunting, be authorized to carry and use any lawfully acquired rifle or shotgun and suitable ammunition therefor.

Sec. 2544. Place to keep firearms. The possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, or to carriage as merchandise in a wrapper from the place of purchase to the purchaser's home, place of business or place of sojourn, or between these places and a place of repair, or upon change of place of business, abode, or sojourn, except as provided in sections 2543 and 2547.

Sec. 2545. Ownership or possession by person convicted of crime of violence prohibited; penalty. No person who has been convicted in this Territory or elsewhere, of having committed or attempted a crime of violence, shall own or have in his possession or under his control a pistol or revolver or ammunition therefor. Any person violating any provision of this section or the preceding section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both.

Sec. 2546. Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty. The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, sub-machine guns, automatic rifles,

cannon, mufflers, silencers or devices for deadening or muffling the sound of discharged firearms, or any bomb or bombshell is prohibited. Any person convicted of a violation of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both.

Sec. 2547. Permits to carry. In an exceptional case, when the applicant shows good reason to fear injury to his person or property, the chief of police of the city and county of Honolulu or the sheriff of a county, other than the city and county, may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the city and county or the county within which such license is granted, a pistol or revolver and ammunition therefor. Unless renewed, such license shall automatically become void at the expiration of one year from date of issue. No such license shall issue unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony, or adjudged insane. All licenses to carry concealed weapons heretofore issued shall expire at midnight on January 9, 1934. No person shall carry concealed on his person a pistol or revolver or ammunition therefor without being licensed so to do under the provisions of this section.

For each such license there shall be charged a fee of ten dollars, which shall be covered into the treasury of the city and county or the county in which such license is granted.

Any person violating this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both.

Sec. 2548. Alteration of identification marks prohibited; penalty. No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number or other mark of identity of any firearm or ammunition. Possession of such firearm or ammunition upon which any mark of identity shall have been altered, removed, or obliterated shall be presumptive evidence that such possessor has altered, removed or obliterated the same. Any person who violates the provisions of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Sec. 2549. Certain public officers exempted. The provisions of sections 2544-2547 shall not apply to members of police departments, sheriffs, marshals, members of military and naval forces of the Territory and of the United States, mail carriers, law-enforcement officers, or persons employed by the Territory or subdivisions thereof or the United States whose duties require them to be armed, while such persons are in the performance of their respective duties, or while going to and from their respective places of duty, nor shall the provisions of sections 2541 and 2542 apply to such firearms or ammunition as are a part of the official equipment of any federal agency.

Sec. 2550. Firearms forfeited when. All firearms or ammunition carried or possessed contrary to law shall be forfeited to the Territory, and shall be destroyed by the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county, in whose jurisdiction they are forfeited.

Sec. 2551. Revocation of permits. All permits and licenses provided for under sections 2540 to 2553 may be revoked, for good cause, by the issuing authority

or by the judge of any court.

Sec. 2552. Report of revocation. Within ten days after the last day of each month each of the authorities herein authorized to issue or revoke permits and licenses shall make a report to the bureau of crime statistics as of the last day of the preceding month of all permits and licenses issued or revoked by him. The report shall be in such manner and in such form as the bureau of crime statistics shall prescribe.

Sec. 2553. Penalty for falsification. If any person, in complying with any of the requirements of this chapter, shall give false information, or offer false evidence of his identity, he shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both.

### BUSINESS LICENSES

Sec. 2554. License to sell firearms; fee. The annual fee for a license to sell firearms in the Territory, either at wholesale or retail, shall be ten dollars.

Sec. 2555. License to sell firearms; conditions. Every license issued pursuant to the provisions of this subtitle shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

1. That the licensee shall at all times comply with all provisions of law relative to the sale of firearms.
2. That the license may during any time of national emergency or crisis, as hereinafter defined, be canceled or suspended.
3. That all firearms in the possession and control of any licensee may at any time of national emergency or crisis, as hereinafter defined, be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the Territory may agree upon some other disposition of the same.

Sec. 2556. National emergency, when. A national emergency or crisis shall be deemed to have arisen when the governor, the commanding officer of Hawaiian Department of the United States army and the commandant of the 14th Naval District in Hawaii have, in the exercise of their discretion, so determined.

Sec. 2557. Punishment for violations of section 2555. Any person who shall sell any firearm within the Territory without having a valid license so to do, or who being a holder of such a license shall violate any of the terms or conditions of the same, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for not less than three months nor more than one year.

Sec. 2570. Definitions. Whenever used in this chapter, unless otherwise apparent from the context:

"Alcohol" means the product of distillation of any fermented liquid, whether rectified or not, whatever may be the origin thereof, and includes synthetic ethyl alcohol, but not denatured or other alcohol which is considered non-potable under the customs laws of the United States.

"Beer" means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley or other grain, malt and hops in water.

"Commission" shall mean the liquor commission in each case for the county within which such commission has jurisdiction under this chapter.

"Club" means any organization for objects of a social, patriotic, political or athletic nature, or the like, but not for pecuniary gain, having a regular membership to all of whom is charged monthly or quarterly dues, employing a full time steward, and from which organization no person is entitled to or takes, directly or indirectly, any share of the profits thereof. "Club" also means the establishment so operated and the premises thereof; provided, however, that the work 'Club' shall not apply to any organization not in existence for at least two years prior to its application for a license.

"County" means the county or city and county in respect of which each commission has jurisdiction under this chapter; provided that in the county of Kalawao liquor may be sold only by such persons and only under such conditions as may be permitted or prescribed from time to time by the board of hospitals and settlement.

"Inspector" shall mean any inspector of the commission in each case for the county wherein the commission has jurisdiction.

"License" shall mean any license granted under this chapter.

"Licensee" includes also all agents, servants and employees of the holder of a license.

"Liquor" or "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter and wine, and in addition thereto any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one per centum or more alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes.

"Original package" means a package or container as it existed at the time of its delivery by the manufacturer or the wholesale dealer for convenience in its transportation and sale.

"Person" shall mean and include natural persons, associations, copartnerships and corporations, and shall also include any agent, servant and employee of such person.

"Premises" or "licensed premises" shall mean the premises in respect of which a license has been or is proposed to be issued.

"Public place" means any place, building or passenger conveyance to which the public resort or are generally permitted to have access.

"Regulation" shall mean any regulation prescribed by the commission with the approval of the governor for carrying out the provisions of this chapter.

"Sell" or "to sell" shall include: to solicit and receive an order for; to have or keep or offer or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; to traffic in; and the word "sale" includes every act of selling as herein defined.

"Seller" includes the agents and employees of a seller, provided that any person shall be deemed to be a seller, for the purposes of this chapter, who in the Territory, whether acting as agent or representative of a non-resident principal or otherwise, solicits the placing of or takes, receives or forwards, orders for liquor to be shipped into the Territory from any place without the Territory to be delivered to customers, by direct shipment or otherwise.

"Under the influence of liquor" means that the person concerned has consumed intoxicating liquor sufficient to impair at the particular time under inquiry his normal mental faculties or ability to care for himself and guard against casualty, or sufficient to substantially impair at the time under inquiry that clearness of intellect and control of himself which he would otherwise normally possess.

"Wine" means any wine coming within the definition of wine contained in the United States Revenue Act of 1918 (Act of February 24, 1919), and for the purposes of this chapter, shall include sake.

"Written" or "writing" include printing and typewriting.

Sec. 2571. Illegal manufacture, importation or sale of liquor. It shall be unlawful for any person, not having a valid license, to manufacture, sell or offer or expose or keep for sale, any liquor.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the Territory.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him.

#### COMMISSIONS: GENERAL

Sec. 2572. County liquor commissions. There shall be appointed for each county, in the manner prescribed by section 80 of the Organic Act, a commission to be known as the liquor commission, one of whom shall be designated by the governor as chairman, and not more than a majority of whom on any commission shall be of the same political party. Each member shall be a citizen of the United States and shall have resided in the county for which appointed for at least three years. The commission for the city and county of Honolulu shall consist of five members, ap-

pointed, one for a term to expire on December 31, 1937, one for a term to expire on December 31, 1938, one for a term to expire on December 31, 1939, one for a term to expire on December 31, 1940, and one for a term to expire on December 31, 1941; thereafter every appointment shall be made for a term of five years, commencing from the date of the expiration of the last preceding term. The commissions for the other counties shall consist of three members, appointed, one for a term to expire on December 31, 1937, one for a term to expire on December 31, 1938, and one for a term to expire on December 31, 1939; thereafter every appointment shall be made for a term of three years, commencing from the date of the expiration of the last preceding term. Any vacancy shall be filled by appointment for the remainder of the unexpired term. No person shall be a member of any commission who is or becomes engaged, or is directly or indirectly interested, in any business for the manufacture or sale of liquor or who advocates or is or becomes a member of, or is identified or connected with, any organization or association which advocates prohibition, or who serves as an officer or committee member of any political party organization or who presents himself as a candidate for election to any public office. This provision shall be enforced by the governor by the removal of the disqualified member whenever such disqualification shall appear.

The members of the commission shall be allowed their reasonable expenses for travel and other costs necessarily incidental to the discharge of their duties and shall each receive and be paid compensation for their services at the rate of ten dollars per day for each day's actual attendance upon their duties, provided, however, that the members of the commission of the city and county of Honolulu shall not receive more than one hundred dollars each per month and the members of the several counties shall not receive more than seventy dollars each per month on account of such compensation.

Each member of the commission, before entering upon the duties of his office, shall take and subscribe an oath that he will faithfully perform such duties according to law, which written oath shall be filed with the Secretary of the Territory.

Sec. 2573. Commission office. The board of supervisors of each county shall furnish the commission of such county suitable quarters for its meetings, the transaction of its business and the keeping of its records. The office of the commission shall at all times be open for the transaction of its business during its prescribed business hours.

Sec. 2574. Meeting. Meetings of the commission may be held at any time and as often from time to time as such commission shall deem necessary for the proper transaction of its business, upon call of the chairman or by the other two members of the commission. The secretary shall give such notice of such meetings as the commission may prescribe to the several members, and give any other notice thereof directed by the commission.

Sec. 2575. Records. The commission shall cause to be kept complete records of all of its meetings, proceedings and acts with reference to all of its business and pertaining to all licenses issued, suspended and revoked, all moneys received as license fees and otherwise, and all disbursements by the commission or under its authority, and such records shall at all times be kept in the office of the commission and be open to the examination of the treasurer of the Territory, the attorney general, the county attorney, or any other government officers having any official concern therein.

Sec. 2576. Reports, accounts, audit. On or before January 31 of each year the chairman of the commission shall submit to the governor a full report upon the business and operations of the commission during the preceding calendar year, with such other matters of information and comment as the chairman may deem appropriate, which report shall be accompanied by a summarized account which shall show, with sufficient detail for a proper understanding thereof, all moneys received, disbursed and expended during the year, and the status and balances of all funds of the commission. The chairman shall furnish copies thereof to the treasurer of the Territory and the board of supervisors and auditor of the county.

The accounts of the commission shall be regularly examined by the auditor of the county who shall report thereon in writing to the board of supervisors and forward a copy thereof to the treasurer of the Territory.

Sec. 2577. Jurisdiction and powers. The commission, within its own county, shall have the sole jurisdiction, power, authority and discretion, subject only to the provisions of this chapter:

1. To grant, refuse, suspend and revoke any licenses for the manufacture, importation and sale of liquors;
2. To control, supervise and regulate the manufacture, importation and sale of liquors;
3. From time to time to make, amend and repeal such rules and regulations, not inconsistent with this chapter, as in the judgment of the commission shall seem appropriate for the carrying out of the provisions of this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission; which rules and regulations, when approved by the governor and published once in the English language in a newspaper printed and published within the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, shall have the force and effect of law;
4. To appoint and at pleasure remove a secretary, (who may also be appointed an inspector), and such inspectors and clerical or other assistants as its business may from time to time require, to prescribe their duties and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every inspector shall, within the scope of his duties, have the powers of a police officer. No employee of any commission shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office, and upon satisfactory proof of such prohibited activity the offender shall be summarily dismissed.
5. To limit the number of licenses of any class or kind within the county or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations shall be in the public interest;
6. To prescribe the nature of the proof to be furnished, the notices to be given and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including

a requirement for any indemnity deemed appropriate to the case;

7. To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which hours shall be uniform throughout the county as to each class respectively; provided, however, that manufacturers and wholesale dealers shall make no sales after six p.m., except on Saturdays and holidays, on which days they shall make no sales after seven-thirty p.m.;

8. To prescribe all forms to be used for the purposes of this chapter not herein otherwise provided for and the character and manner of keeping of books, records and accounts to be kept by licensees in any matter pertaining to their business;

9. To investigate violations of this chapter, through its inspectors or otherwise, and to report such violations to the prosecuting officer for prosecution; to hear and determine complaints against any licensee; to subpoena and examine witnesses under oath and require the production of, and examine any of the books, papers and records of any licensee which may pertain to his business under his license or which shall or may pertain to any matter at any hearing or investigation by or before the commission. Each member of the commission shall have the power to investigate any matter of which the commission may take cognizance, and take testimony in the same manner as any court and neither the commission nor any member shall be bound by the strict legal rules of evidence;

10. To prescribe, by rule and regulation, the terms, conditions and circumstances under which persons or any class of persons may be employed by holders of dispensers' licenses.

The commission and each member thereof shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence and examining witnesses as are possessed by a circuit judge at chambers.

The exercise by the commission of the power, authority and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal.

Sec. 2578. Hearings, attendance, examinations. If any person subpoenaed as a witness to attend before the commission, or to produce any books, papers or records called for by the process of the commission, shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the commission or its counsel material to the matter pending before the commission, the circuit court of the circuit within which the licensed premises involved are situated, upon request of the commission, shall have power to compel obedience to any process of the commission and require such witness to answer questions put to him as aforesaid, and to punish, as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness before the commission shall constitute perjury and be punished as such, and whenever the commission is satisfied that a witness has sworn falsely in any hearing or investigation before the commission, it shall report the same to the prosecuting officer for prosecution.

Sec. 2579. General right of inspection. Each member of the commission and its inspectors shall have the right at all times, without notice and without any search warrant or other legal process, to visit and have immediate access to every part of the premises of every licensee for the purpose of making any examination or inspection thereof or inquiry into the books and records pertaining thereto and the manner of conduct of business under the license.

### LICENSES AND PERMITS

Sec. 2580. Licenses, classes. Licenses may be granted by the commission as follows:

Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds: (a) beer; (b) wine; (c) wine manufactured from grapes or other fruits grown in the Territory; (d) alcohol; (e) other specified liquor. It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

Class 2. Agents' licenses. Any agent's license shall be of a general kind whereby the licensee may sell all liquors except alcohol. Under this license the licensee is authorized (a) to sell only as an agent of manufacturers of liquors and (b) to sell such liquors only to persons holding wholesale dealers' licenses. Under this license it shall be unlawful for the licensee to own or have control over any liquors within the Territory for sale. No agent's license shall be issued to an individual unless he shall have been a resident of the Territory, nor to a corporation unless it shall have been authorized to do business in the Territory, for at least six months prior to the application for such license.

Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to re-sell but are not by law required to hold a license the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods. Under such license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) alcohol. Should any wholesale dealer solicit or take any orders in any county other than that where his place of business is located, such orders may be filled only by shipment direct from the county in which such wholesale dealer has his license, or by direct shipment from outside the Territory on indent orders.

Class 4. Retail dealers' licenses. A license to sell liquors at retail shall authorize the licensee to sell the liquors therein specified in their original packages in quantities less than five gallons at one time. Under such license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) alcohol.

Class 5. Dispensers' licenses. A dispenser's license shall authorize the licensee to sell liquors therein specified for consumption on the premises. Of

this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) beer.

Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by such club, and shall also authorize any bona fide club member to keep in his private locker on such premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the Territory for the sale of liquor (other than alcohol) on board such vessel while in the waters of the Territory; provided such sales be made only while such vessel is enroute, and only for consumption by passengers on board. If such vessel has a home port in the Territory the license shall be issuable in the county wherein such home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor shall be sold or served within three miles of the shore of any island of the Territory the same shall constitute a violation of this chapter.

Class 8. Special. A special license may be granted for the sale of beer for a period not to exceed three days, by the glass only, on any occasion and under such conditions as may be approved by the commission.

Sec. 2581. License fees. The fees for licenses of the several classes and kinds shall be as follows, the same being per annum except where otherwise specified:

<u>Class</u>	<u>Kind</u>	<u>Fees for District of Honolulu.</u>
1. Manufacturers (including rectifiers)	(a) Beer.....	\$300.00
	(b) Wine.....	300.00
	(c) Wine manufactured from grapes or other fruits grown in the Territory.....	48.00
	(d) Alcohol.....	150.00
	(e) Other liquors.....	480.00
2. Agents	(a) General.....	180.00
3. Wholesale	(a) General.....	900.00
	(b) Beer and wine.....	240.00
	(c) Alcohol.....	24.00
4. Retail	(a) General.....	420.00
	(b) Beer and Wine.....	180.00
	(c) Alcohol.....	12.00
5. Dispensers	(a) General.....	840.00
	(b) Beer and wine.....	300.00
	(c) Beer.....	180.00
6. Club.....		120.00
7. Vessel.....		60.00
8. Special, per day.....		5.00

The fees for all classes of licenses except dispensers' shall be the same outside the district of Honolulu as for the district of Honolulu. The fees for dispensers' licenses outside the district of Honolulu shall be one-half of the fees for the district of Honolulu, except in places where within a radius of two miles therefrom there is a population of less than one thousand persons, in which instances the fees for dispensers' licenses shall be one-third of the fees for the district of Honolulu.

Sec. 2582. Conditions for special privilege permits (Repealed).

Sec. 2583. Special conditions, club licenses. Whenever the commission shall be of the opinion that any holder of a club license is not conducting the business under such license in good faith; or that the premises thereof are not continuously kept suitably arranged, furnished, equipped and actually and reputationally operated as a club, or that the apparent or claimed manner of operation of the club as such is only nominal or pretended or amounts to a sham or subterfuge under which liquor is being sold as the principal object of the club, the license may be summarily suspended pending a hearing why it should not be revoked.

Sec. 2584. Special conditions, retail dealers' licenses. If the premises for which a retail dealer's license is issued are not used exclusively for the sale of the liquors specified therein, then a space upon the premises shall be set aside specially for the sale of such liquors.

It shall be unlawful for any person holding a retail dealer's license to sell any liquor under such license at any price less than the locally prevailing retail price.

Sec. 2585. - Special conditions, club licenses. No liquor shall be sold under a club license to any person not a bona fide member of the club nor a bona fide guest thereof enjoying the privilege of membership, but a member or a guest enjoying the privileges of membership may purchase liquor for consumption on the premises by his own bona fide guests. No guest of a member or of a guest enjoying the privileges of membership shall purchase or be permitted to purchase liquor on the premises.

The commission may by regulations require the keeping and posting of lists of the members of a club, and the keeping and production of records as to membership and the registration of guests.

No liquor shall be sold or kept for sale at any club except by the club itself pursuant to its license. If any liquor shall be sold or kept on the club premises for sale or barter by any member, employee or person other than the club itself, the club shall be deemed to be selling without a license whether it holds its own license or not.

Sec. 2586. Sales of alcohol. No alcohol shall be sold, bartered or otherwise furnished by any person whether holding a license to manufacture or sell the same under this chapter or not, except to a person holding a license to resell the same, or to a person holding a purchase permit from the commission to purchase the same.

Permits to purchase alcohol may be issued by the commission, without fee or charge therefor, to any person holding a license under the laws of the Territory

to sell poisonous drugs, or to any person who in the opinion of the commission requires the use thereof for pharmaceutical or other purposes in the bona fide treatment of patients of such person, or for rubbing, cleansing or as a preservative, or for any bona fide scientific purpose, but in no case for use for beverage purposes.

On every sale of alcohol the seller, after first being satisfied that the person presenting a permit is the person therein named, shall make a record on such permit and sign the same showing the name of the purchaser, the date, the quantity sold, and the purpose declared as to the intended use thereof. He shall also keep a separate record of the same matters. If in any permit there is a prescribed limit as to the quantity purchasable thereunder at any one time or in the aggregate in any given period of time, the permit shall not be honored beyond its terms.

The commission may, by rules and regulations, where deemed appropriate, provide for the sale of alcohol upon prescriptions of duly licensed physicians in lieu of the permits above mentioned.

Sec. 2587. Term of license; payment of fees. Every license whenever issued shall expire with the close of June 30 next succeeding its issue. The fee for any license issued hereunder shall be due and payable in advance on July 1 of each year or on commencing the business thereunder. The fee for a license issued July 1 shall be for a full year. The fee paid for a license issued on any other date shall be reckoned proportionally from the first day of the month in which the business is commenced to the said expiration date; provided, however, that the fee for an agent's license, regardless of when the same is issued, shall be the full amount of the annual fee.

Sec. 2588. County liquor commission funds; disposition of realizations; payment of expenses. There is created in the treasury of each county a special fund to be known as the "liquor commission fund" into which shall be paid weekly or oftener all fees and other moneys collected or received by the commission under the provisions of this chapter. All expenses of the commission, including expenses and compensation of its members and expenses and salaries of its subordinates, shall be paid out of such fund upon vouchers approved by the commission, signed by the chairman and countersigned by the secretary. The board of supervisors of the county is directed to advance to the commission from the general fund of the county such moneys as may be necessary to meet all of its expenses until such time as it shall be in receipt of sufficient funds for such purpose. Such general fund shall be reimbursed out of moneys in the liquor commission fund when received. During the month of December of each year the commission shall prepare an estimate of its receipts and expenditures for the succeeding calendar year, and shall, on or before the tenth day of each July, October, January and April, pay into the general fund of the county any moneys in the liquor commission fund which the commission deems to be in excess of its requirements, taking into consideration estimated future receipts.

Sec. 2589. Conditions of licenses. Every license issued under this chapter shall contain the condition that it is subject to all of the provisions of this chapter and any other laws applicable to the business of the licensee, whether in existence at the time of the issue of such license or enacted or amended from time to time thereafter, and to all applicable rules and regulations of the commission as the same may exist or be adopted or changed from time to time.

Sec. 2590. Place of business. A license issued under this chapter shall authorize the doing of the business licensed only at the place described in the license, which shall be known as the licensed premises, except in case of a removal with the prior written consent of the commission indorsed on such license. No change of premises under any issued license shall be allowed unless the doing of business on the new premises shall be authorized in the same manner as required by this chapter for approval of any original premises.

Sec. 2591. Unlicensed liquor. No licensee shall have or keep any liquor whatever, for sale or consumption, on or in connection with his licensed premises except as authorized by his license. Any unauthorized liquor found thereon shall be subject to summary seizure, confiscation and forfeiture, and may be disposed of as hereinafter provided.

Sec. 2592. Transfer of licenses. No license issued under this chapter shall be transferable or transferred except to a transferee approved by the commission after inquiry into the propriety thereof and the fitness of the proposed transferee as though he were an original applicant. The refusal by the commission to approve a transfer shall be final and conclusive. If any licensee without such approval shall transfer to any other person his business for which his license was issued, either openly or under any undisclosed arrangement, whereby any person other than the licensee comes into possession or control of the business, or takes in any partner or associate whom the commission may deem to be an unfit or improper person to hold a license in his own right, the commission may in its discretion suspend or cancel such license.

If a licensee shall close out the business for which the license is held, during the term for which the license was issued, he shall, within five days from the date of closing the same, give the commission written notice thereof and surrender his license for cancelation, and for failure thereof he shall be deemed guilty of a misdemeanor under penalty of a fine not to exceed one hundred dollars.

Sec. 2593. Manufacturers and wholesale dealers, special restrictions. It shall be unlawful for any person holding a manufacturer's license or a wholesale dealer's license:

1. To own, hold or be or become interested in or connected with the liquor business of any other licensee who is authorized to sell liquors for consumption on his premises;
2. To control, employ, manage or financially assist in any manner any other licensee who is authorized to sell liquors for consumption on his premises;
3. To hold any interest in any premises on which liquors are sold for consumption on such premises unless the holding of such interest is permitted under regulations of the commission or a statement thereof has been filed with the commission and has not been disapproved by it;
4. To sell any liquor at wholesale prices without invoicing the vendee's license number, except where the vendee, although authorized to re-sell, is not required by law to hold a license, in which case the invoice shall fully indicate such vendee's identity;
5. To sell, under any retail license which he may also hold, any liquor

to a non-licensee at any price less than the locally prevailing retail price thereof.

This section shall not be held to prohibit the granting of the credits ordinarily extended with respect to the sale of liquors by a person holding a manufacturer's or a wholesale dealer's license.

Sec. 2594. Advertising upon licensed premises. The commission shall have power to prescribe the character and extent of all advertisements, posters or signs which may be posted or maintained in or about the licensed premises; provided, that such premises shall bear no exterior or interior advertising visible from the street other than the name of the establishment, the type of license held by it, and the display of the merchandise sold under such license.

The word "saloon" shall not be used in any advertisements, posters or signs to describe the liquor business or the licensed premises of any licensee.

Sec. 2595. No license issued, when. No license shall be issued under this chapter:

1. To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license;

2. To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph 1 of this section from obtaining such license individually;

3. Unless the applicant therefor shall file with the commission certificates of the same character and effect as are required by section 2403.

4. To any applicant from whom any liquor license has been revoked less than two years previous to the date of the application for any like or other license under this chapter.

#### PROCEDURE FOR OBTAINING LICENSE

Sec. 2596. Prior inspection. No license shall be issued under this chapter unless and until the commission shall have caused to be made a thorough inspection of the premises upon which the proposed business is to be conducted and is satisfied as to its fitness and that all other general condition and proposed methods of operation under the license are such as are suitable for carrying on the business in a reputable way.

Sec. 2597. Public hearing. No license shall be granted or renewed except after a public hearing held by the commission upon notice as in this chapter provided.

Sec. 2598. Application; penalty for false statements. Every application for a license or for the renewal of a license shall be in writing, signed, and verified by the oath of the applicant, or in the case of a corporation or unincorporated association by the proper officers thereof; or if a partnership by a majority of the members thereof, made before any official authorized by law to administer oaths, and shall be addressed to the commission, and set forth:

1. The full name, age and place of residence of the applicant; and if a copartnership the names, ages and respective places of residence of all the partners; if a corporation or joint stock company, its full name and the names of its officers and directors; and if any other association of individuals other than a corporation, the names, ages and other respective places of residence of its officers and the number of its members;

2. A particular description of the place or premises where the proposed license is to be exercised, so that the exact location and extent thereof may be clearly and definitely determined therefrom;

3. The class and kind of license applied for;

4. Any other matter or information pertinent to the subject matter which may be required by the rules and regulations of the commission.

If any false statement shall knowingly be made in any application, the applicant, and in the case of the application being made by a corporation, association or club, the persons signing the application, shall be guilty of perjury, and shall be subject to the penalties prescribed by law for such offense.

Sec. 2599. Reference to inspector. Upon the filing of any application the secretary of the commission shall indorse thereon the date of filing thereof. If no patent disqualification of the applicant or certain valid objection to the granting of the application shall be apparent initially and if all requirements relative to the filing of the application shall appear to have been complied with, the chairman of the commission shall refer the application to the inspector for investigation and report.

Sec. 2600. Report by inspector. On every application so referred to him the inspector shall report in writing to the commission, and if the application be for a license of any class other than the eighth class such report shall include the statements showing:

1. A description of the premises intended to become the licensed premises, and the equipment and surrounding conditions;

2. If the application be made by a person who has held a prior license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted under such previous license;

3. The locality of any church, chapel or school in the neighborhood, if any;

4. The number, position and distance from the premises, in respect of which a license is applied for, of any other licensed premises in the neighborhood;

5. The number of licenses of the same class or kind already issued and being lawfully exercised within the county;

6. Whether or not in the opinion of the inspector the applicant is a fit and proper person to have a license;

7. Whether or not the applicant is, for any reason disqualified by any

provision of this chapter from obtaining or exercising a license; and whether or not he has complied with all the requirements of this chapter relative to the making and filing of his application;

8. Any and all other matters and things which in the judgment of the inspector pertain to or affect the matter of the application or the issuance or the exercise of the license applied for;

9. His recommendation for or against the granting of the application, specifying his reasons therefor.

Sec. 2601. Notice. Upon the filing of the inspector's report upon any application the commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an agent's license, a special license, a vessel license or an alcohol license) and shall publish notice of such hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than twenty-one days after the first publication, and such notice shall require that all protests or objections against the issuance or renewal of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same. Immediately upon the commission's fixing a day for the public hearing of the application (other than an application for an agent's license, a special license, a vessel license or an alcohol license), the applicant shall send a notice setting forth the time and place of the hearing on the application by registered mail to a majority of the persons being the owners or lessees holding under recorded leases, of real estate situate within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than twenty-one days prior to the date set for the hearing of the application; and before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice. Notice by registered mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative.

Sec. 2602. Protests. Protests against the granting or renewal of a license upon such application may be so filed by any registered voter for the election precinct within which the applicant proposes to establish or continue his business under the license applied for, or by any person owning in fee simple any real estate or holding the same under a recorded lease, situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate.

Sec. 2603. Hearing. Upon the day of hearing, or any adjournment thereof, the commission shall consider the application and any protests and objections to the granting thereof, and hear the parties in interest, and shall within ten days thereafter give its decision granting or refusing such application; provided that if a majority of the registered voters for such precinct or a majority of the persons owning such real estate or holding the same under recorded leases shall have duly filed or caused to be filed their protests against the granting of the license

upon the original application therefor, or if there appear any other disqualification under this chapter, the application shall be refused. Otherwise the commission may in its discretion grant or refuse the same. The commission may also, with like discretion, grant a license to one person in preference to another, without reference to any priority in the order of filing of the applications; and may of its own motion, or on the suggestion of any member thereof or of the inspector (even though such inspector may have previously approved the application) take notice of any matter or thing which in the opinion of a majority of its members would be a sufficient objection to the granting of a license; but in such case if the objection be one to which the applicant should be given a reasonable time to answer, a continuance may be granted in the discretion of the commission; provided, nevertheless, that in any case where any person affected by such decision shall petition the commission for a rehearing of the application and on oath allege facts and grounds for consideration which were not formerly presented or considered, or any other matter of fact which in the judgment of the commission shall seem sufficient to warrant a rehearing, such rehearing may be granted by the commission in its discretion. When a rehearing is allowed notice thereof shall be given to the applicant and to his opponents, by publication or otherwise as the commission shall direct.

Sec. 2604. Further application. If any applicant has at any time been refused a license on the ground that he is not a fit person to hold a license, no application by him shall be considered for one year from such refusal or the last of such refusals if there shall have been more than one. If an application shall be refused because a sufficient number of protests have been filed and sustained under the provisions of section 2603, no other application shall be considered for the same person for the same premises within one year from such refusal thereof.

Sec. 2605. Renewals. No renewal of an existing license shall be granted except under like procedure as in the case of an original application, provided, however, that the notice required to be sent by the applicant under section 2601 need not be sent and that a protest of a majority of registered voters and of a majority of owners of real estate shall not constitute absolute ground for the refusal of a renewal. The date of the hearing of an application for renewal may be fixed not less than fourteen days after the first publication of the notice thereof. Renewal of a license shall be deemed an issuance of a license.

Sec. 2605 A. Reduction or increase in area of licensed premises. The commission may, in its discretion, permit the reduction or the increase in the area of the licensed premises of any licensee, provided, however, that no increase shall be in excess of twenty-five per centum of the area of the original licensed premises. Whenever any reduction or increase is permitted, the same shall be endorsed in some appropriate manner upon the license.

#### DUTIES OF AND SUPERVISION OVER LICENSEE.

Sec. 2606. Posting of license. Every license issued and in effect under this chapter shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises. For failure thereof the license

may be suspended or revoked by the commission.

Sec. 2607. Condition of premises. All premises licensed or proposed to be licensed shall be constructed, arranged, furnished, equipped, maintained and operated in such manner as may be prescribed by the commission.

Sec. 2608. Quality of liquor; penalty. No liquor at any time manufactured or sold in the Territory shall be other than of a pure quality, according to any applicable legal standard therefor under the laws of the United States, unadulterated with any mixture of noxious, deleterious or poisonous substance.

Any person who manufactures or sells any liquor of a quality or character contrary to this section, shall be guilty of a misdemeanor and upon conviction shall be punished as in section 2631 provided.

Sec. 2609. Labels on containers. All persons manufacturing any liquor for sale under the provisions of this chapter shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture. Every container containing liquor for sale by any person holding a wholesale or retail license shall have securely and permanently attached to it a label setting forth the kind and quantity of liquor contained therein and by whom manufactured.

In addition to the foregoing requirements, all such labels shall conform in all respects to the then existing federal laws and regulations regarding such labels.

Sec. 2610. Analyses; penalty. Whenever the commission or any member or inspector thereof shall have reason to believe or suspect, on complaint or otherwise, that any liquor being manufactured or which is possessed or kept for sale by any licensee is or may be impure or adulterated or otherwise not conformable to any lawful requirement, the commission or any member or inspector thereof or other person authorized in writing by the commission or by the inspector may secure a sample thereof for analysis. Upon such sample being obtained, as though by ostensible purchase or otherwise, the person procuring the same shall immediately disclose to the licensee his office or authority and purpose, and in case the procurer shall be a person other than a member of the commission or the inspector he shall then deliver to the licensee a copy of the written order for the procurement of the sample. The bottle or other container containing the sample shall then and there be sealed by the procurer thereof before being taken from the premises of such licensee and the licensee may also attach his seal thereto.

The inspector shall cause the sample so obtained to be immediately delivered with the seal or seals unbroken to the food commission or analyst or some other competent analyst employed by the commission who shall make an analysis of such liquor and shall send a certified report thereof to the inspector, who shall immediately file the same with the secretary of the commission.

If the sample analyzed be found pure and unadulterated and conformable with all legal requirements for such liquor, the certificate referred to in the preceding paragraph shall so state, and the commission shall pay to the licensee a sum equal to the value of the sample, and if requested by the licensee the secretary shall furnish him a copy of the analysis.

If the certificate of analysis shows the sample to be impure or adulterated or contrary to any legal requirement the licensee shall be prosecuted for selling, or offering for sale, or furnishing forbidden liquor in violation of this chapter.

Sec. 2611. Tampering with samples; penalty. Any person who tampers with any sample of liquor taken for analysis under the provisions of this chapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

Sec. 2612. Refusal of samples, penalty. Any licensee who refuses to deliver or accede to the taking of any sample of liquor for analysis upon disclosure of the procurer's authority as provided by section 2610 shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars.

Sec. 2613. Interdiction. (Repealed)

Sec. 2614. Notice of interdiction. (Repealed)

Sec. 2615. Sale to interdicted person, penalty. (Repealed)

Sec. 2616. Duration of interdiction. (Repealed)

Sec. 2617. Prohibitions. 1. At no time under any circumstances shall any liquor:

(a) Be consumed on any public highway;

(b) Be sold or delivered on Sundays, or on election days during the hours election booths are open for voting, provided, that the commission may, by rule or regulation, and during such hours and under such terms, restrictions and classifications as it may therein prescribe, permit clubs and dispensers to sell liquors, and permit the delivery or shipment of draught beer, on such days;

(c) Be sold or furnished by any licensee to any minor, or to any person at the time under the influence of liquor or to a person known to the licensee to be addicted to the excessive use of intoxicating liquor, or to any interdicted person, or to any person for consumption in any vehicle on the licensed premises;

(d) Be consumed on the premises of a licensee or on any premises connected therewith, whether there purchased or not, except as permitted by the terms of the license;

(e) Be sold or served by any minor upon any licensed premises.

2. At no time nor under any circumstances shall any licensee:

(a) Knowingly permit any person under the influence of liquor or disorderly person to be or remain in or on the licensed premises.

Sec. 2618. Entry for examination. It shall be the duty of every inspector, and it shall be lawful for any member of the commission or any officer having police power, at all reasonable times, and at any time whatsoever if there be any reasonable ground for suspicion that the conditions of any license are being violated, without warrant to enter into and upon any licensed premises and inspect the same and every part thereof, and any books or records therein, to ascertain whether or not all conditions of the license and all provisions of this chapter are being complied with.

If any such officer, or any person called by him to his aid, shall be hindered, obstructed or prevented by any licensee or his employees from entering into any such premises; or whenever any such officer shall by any licensee or his employees be opposed, obstructed or molested in the performance of his duty in any respect, such licensee and every person who shall have assisted him in such offense, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

Whenever any such officer, having demanded admittance into any licensed premises and declared his name and office, is not admitted by the licensee or the person in charge of such premises, it shall be lawful for such officer forcibly and in any manner to break into and enter the premises.

Sec. 2619. Arrest. Any inspector or police officer who observes any violation by any licensee of any of the provisions of this chapter shall forthwith arrest such licensee without warrant.

Sec. 2620. Certain forms of payment prohibited. No licensee shall receive from a person in payment or as a consideration for liquor sold or furnished to such person any wearing apparel, tools, implements of trade or husbandry, household goods, furniture or provisions, either by way of sale or barter, directly or indirectly, or receive from any person any such article in pawn or pledge for liquor. Any person violating this section shall be guilty of a misdemeanor and on conviction thereof shall be punished as in section 2631 provided.

Sec. 2621. No action for debt. No person except a licensed manufacturer or licensed wholesale or retail dealer or his heirs, executors, administrators, trustees or assigns with respect to sales regularly made under his license shall recover by any process of law any debt or demand on account of the sale on credit of any liquor, nor on any note or like obligation given in payment for liquor.

Sec. 2622. Exclusion of intoxicated person from premises. Every person who, being under the influence of liquor, shall enter any premises licensed for the sale of liquor, or being under the influence of liquor shall there remain after having been requested by the licensee or any person in his employ to leave the premises, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 2631 provided.

Sec. 2623. Auction sales. No liquor shall be sold at auction in any house or upon any premises not licensed for the sale of liquor. Any auctioneer or other person violating the provisions of this section shall be guilty of a misdemeanor and be subject to the penalties in this chapter provided for selling liquor without a license; provided that nothing in this chapter shall be taken as prohibiting the sale of liquors at public auction by a person (or any duly licensed auc-

ioneer employed by him) upon whom a duty to sell at auction is imposed by the direction or authority of any court, for the purpose of liquidating or winding up any trade, business or estate, whether such liquidation or winding up shall arise through surrender or termination of a license, or by reason of bankruptcy, assignment for the benefit of creditors, or in probate, or other legal process or proceeding; provided further that in every such case the liquor sold shall constitute and be regularly inventoried by such vendor as part of the assets of the estate, business or enterprise being administered upon by him. In every such case the commission may issue authority to such person to conduct the sale upon such terms and conditions and at such place as it may prescribe and without payment of a liquor license fee or giving a bond.

Sec. 2623 A. Giving liquor as prizes prohibited when. It shall be unlawful for any person to offer or give any intoxicating liquor as a prize at any store, shooting gallery, theatre, carnival, circus, bazaar, game or entertainment, or at any public amusement or other public place, or any public gathering. Any person convicted of violating this section shall be punished as provided in section 2631.

#### REVOCATION OF LICENSE

Sec. 2624. Revocation or suspension of license; hearing. The commission may revoke any license at any time issued, or suspend the right of the licensee to use his license, or reprimand the licensee, either for the violation of any condition of such license or of any provision of this chapter or of any rule or regulation applicable thereto, or upon the conviction at law of the licensee of any violation of this chapter or of any other law relative to his license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission may deem him to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission; provided, however, that in every case where it is proposed to revoke or suspend the exercise of any license for any cause other than a conviction at law of the licensee as above specified, written notice shall be given the holder of such license, specifying the cause or causes for which it is proposed to take such action and fixing the date of hearing, such notice to be given at least five days before such hearing; provided also that when it is deemed urgent by the commission, for the proper protection of the public, that a license be immediately or summarily suspended pending a hearing and decision of the charge against the licensee holding the same, such suspension may be made, whereupon a copy of the order of suspension shall be served upon the licensee at the same time as the notice of hearing referred to. Any attempt of the licensee to exercise his business, while his license is so suspended, shall of itself be sufficient to warrant a definite suspension or entire revocation of his license and shall also subject him to all the penalties by this chapter prescribed for the illicit sale of intoxicating liquors. For such disregard of an order suspending his license the commission may summarily take possession of and **impound all liquors** belonging to him, whether or not the same are situated upon the licensed premises, pending final action in the case. At such hearing, before final action is taken by the commission, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for such proposed action do not exist, or any reasons why no penalty should be imposed; provided, however, that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission.

Any order of revocation or suspension or reprimand imposed by the commission upon the licensee shall be in addition to any penalty that might be imposed upon such licensee upon his conviction at law for any violation of this chapter.

Sec. 2625. Reports to prosecuting officers. When the revocation or suspension of any license is by reason of any violation of law the commission shall report the facts to the prosecuting officer for prosecution.

Sec. 2626. Forfeiture of fee paid. If any license shall be revoked and cancelled by the commission the fee paid for such license shall be forfeited to the county as respects the unexpired portion of the fee paid for such license.

Sec. 2627. Bankruptcy, insolvency, death. If a licensee shall become a legally adjudicated bankrupt, or make an assignment for the benefit of his creditors, or shall die, before the expiration of the term of his license, his trustee in bankruptcy, assignee, executor or administrator, as the case may be, may, with the consent of the commission, continue to exercise such license for the purpose of closing the affairs of such estate; but if not so continued within twenty-one days the commission shall cancel such license.

Sec. 2628. Cancellation. If the use of the premises covered by any license shall become lost to the licensee by reason of being sold under foreclosure proceedings, or a civil execution, or other legal process, or for any other cause, which shall force a cessation of the business of the licensee thereon under such license (other than by a revocation or suspension of his license), and no proper permission is obtained by the licensee to continue his business under the license at some other place, the commission shall cancel such license.

Sec. 2629. Sale under legal process. In case a license is revoked the licensee may within sixty days sell the liquors then in his possession to persons without the Territory or to other licensees unless under this chapter the same shall be seized and forfeited. In case liquors are taken from a licensee under judicial foreclosure proceedings, or by a civil execution or other judicial process, the sheriff, commissioner or other officer appointed for such purpose by law or judicial authority may sell such liquors at public auction, but only to other licensees or to persons who shall send the same out of the Territory. Every such sale shall be made without undue delay and shall be accompanied by immediate and actual delivery.

#### GENERAL VIOLATIONS AND PROSECUTIONS

Sec. 2630. Manufacture or sale without license; penalty. If any person, acting in person or by or through any agent, servant or employee, shall manufacture, sell, or offer or expose or keep for sale any liquor, either directly or indirectly or upon any pretense or by any subterfuge, except as authorized pursuant to this chapter, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

Sec. 2631. Other offenses; penalty. If any person shall violate any provisions of this chapter or any rule or regulation in effect by authority of this chapter, whether in connection therewith a penalty is referred to or not, for which violation no penalty is specifically prescribed, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding six months or by both fine and imprisonment.

Sec. 2632. Duties of county attorney, city and county attorney and public prosecutor. The county attorney of each county shall be the legal advisor of the commission of such county and it shall be his duty to prosecute and defend any and all actions and proceedings involving matters under its jurisdiction, and also to prosecute all violations of this chapter and all suits for the condemnation of property or liquor seized under this chapter and also to prosecute or defend all other suits or proceedings which may arise in connection with such seizure.

The city and county attorney of the city and county of Honolulu shall be the legal advisor of the commission of the city and county and it shall be his duty to prosecute and defend, except as otherwise provided in the following paragraph, any and all actions and proceedings involving matters under its jurisdiction.

It shall be the duty of the public prosecutor of the city and county of Honolulu to prosecute all violations of this chapter and all suits for the condemnation of property or liquor seized under this chapter and also to prosecute or defend all other suits or proceedings which may arise in connection with such seizure.

Sec. 2633. Prosecutions not to exclude other remedies affecting license or goods. The provisions in this chapter for the imposition upon any licensee of the penalties by fine or imprisonment for any violation of this chapter or of any rule or regulation made hereunder having the force of law shall be in addition to and independently of any other right of the commission under this chapter to effect a suspension or revocation of the license of such licensee and shall also be in addition to and independent of any proceeding to effect the forfeiture of any liquor or other property belonging to such licensee as contemplated by this chapter.

Sec. 2634. Presumptive evidence. In any prosecution under this chapter, the fact that any person engaged in any kind of business holds a license from the government of the United States in the name of himself or any other person to manufacture or sell intoxicating liquors or that he has or keeps in or about his place of business a receipt or a stamp showing payment of a special tax levied under the laws of the United States upon the business of manufacturing or selling intoxicating liquors shall be held and deemed competent evidence that such person is manufacturing or selling such liquors or is keeping the same for sale.

Sec. 2635. Search warrants; seizure. If any person shall make complaint, supported by oath, before any magistrate or judge, setting forth facts sufficient to show probable cause that any liquor is being manufactured or kept or deposited for sale or distribution contrary to law within his jurisdiction in any house, premises or place, or that any such liquor is lodged or contained in any vehicle for transportation by land, water or air, the magistrate or judge shall issue a warrant directed to any sheriff, chief of police or police officer, commanding him to search the premises, place or vehicle described in the complaint. If any intoxicating liquor is found therein under circumstances warranting the belief of the officer that it is being manufactured or is intended for sale or distribution contrary to law, the officer acting under the warrant shall seize and convey the liquor and any land vehicle in which the same is found to some place of security and keep the same until final action is had thereon.

When, in case of any entry as aforesaid, it shall be found that liquor is

there being manufactured contrary to this chapter the officer may likewise seize and convey the same to some place of security and keep it until final action is had thereon.

Sec. 2636. Seizure without warrant. If any inspector or police officer has information which causes him to believe that liquor is kept or deposited in any place mentioned in the preceding section, except a dwelling house, or is kept or concealed in any conveyance, container, baggage, or clothing which is in course of transportation along any highway, for sale or distribution contrary to law, and if he has reason to believe that the delay which would be necessitated by the procurement of a search warrant would result in the loss, destruction or concealment of the evidence of such violation of law, he may forthwith, without such warrant, search the suspected place, vehicle or container, and if he shall there find liquor under circumstances warranting the belief that it is intended for sale or distribution contrary to law, he shall seize and convey the same, including any vehicle in which the same is found, to some place of security, and keep the same until final action is had thereon. The officer shall forthwith, after the seizure, make written complaint under oath, setting forth the facts before a magistrate or judge having competent jurisdiction.

Sec. 2637. Arrest; abettors, penalty. The owner, keeper and any person having the custody of any liquor or property seized as provided in sections 2635 and 2636 shall be forthwith arrested without necessity of warrant and brought before the magistrate or judge having jurisdiction in the premises. If the owner or keeper of the liquor seized as aforesaid is unknown to the officer making the seizure, or if no person is found in the apparent possession or custody of the same, the officer may arrest and bring before the magistrate or court the owner or occupant of the building, place or premises, or the driver, operator or other person in charge of the conveyance in which the liquor is found, if such person is known or can be ascertained. Any person who shall knowingly have engaged in, aided, assisted or abetted the manufacture, obtaining, keeping or sale of such liquor contrary to law, or have been privy thereto, or have knowingly permitted the use of any place, building, premises or conveyance for such unlawful purpose, shall be guilty of a misdemeanor and be punished as in section 2631 provided.

Sec. 2638. Condemnation of property or liquor; disposition; penalty. Any still, plant or other equipment shown to have been used for the manufacture of liquor in violation of this chapter and any liquor manufactured or sold in violation of this chapter shall be subject to summary seizure as herein provided or to subsequent seizure, and may be condemned and adjudged forfeited to the Territory, in addition to any penalty separately provided for such violation, the same to be enforced by appropriate legal proceedings in the name of the Territory. All such property and liquor so condemned and forfeited may be ordered by the magistrate or court having jurisdiction (a) to be wholly or partially destroyed, or (b) to be sold, wholly or partially, for the account of the county wherein the same were seized; provided that the magistrate or court may order any such liquor, if suitable, to be delivered to the board of health for distribution to any public institution for use therein for medicinal purposes. The order of the magistrate or court with respect to such property or liquor shall be effectively executed by the sheriff or his deputy, or by the chief of police or his deputy, or by any police officer, within such time as may be fixed in the order but not exceeding sixty days. If any person, whether or not an officer or employee of the Territory or any county, shall in any manner or to any extent take, dispose of or use any of such property or liquor otherwise than as herein provided, he shall be guilty of a mis-

demeanor and upon conviction thereof shall be punished as in section 2631 provided.

Sec. 2639. Replevin. If any property or liquor seized under the provisions of this chapter shall be made the subject of a writ of replevin; such liquor shall nevertheless not be delivered to the claimant, but shall be held by the officer having it in custody until the final determination of the action, whereupon it shall be delivered to the claimant if the judgment shall be in his favor, otherwise to the officer having authority to receive and dispose of the same as condemned property. No proceeding for the condemnation of liquor seized as aforesaid shall be delayed or stayed by proceedings in replevin thereof, but the same shall proceed to final judgment as if replevin had not been begun, provided, that execution shall be stayed pending final decision of any issue in replevin.

Sec. 2640. Claims. If the owner or possessor of any property or liquor seized under the provisions of this chapter shall appear and make claim to the same, he shall file with the magistrate or court, before whom the proceedings are pending, his claim in writing, setting forth his interest therein, and the reason why it should not be adjudged forfeited; he shall also give bond in favor of the Territory sufficient in amount and sureties, approved by such magistrate or court, conditioned that such claim will be diligently prosecuted and that if it be decided against him he will pay the costs awarded against him. If the judgment shall be against the claimant, the property and liquor and all containers thereof shall be adjudged forfeited and disposed of as provided in this chapter and judgment shall be rendered against the claimant for all costs of the proceedings incurred after the filing of his claim.

Sec. 2641. Appeals. An appeal shall be allowed to any claimant of property or liquor seized as aforesaid from the judgment of the magistrate or court in the same manner as appeals are allowed in other cases before such tribunals. Should the claimant fail to appear and prosecute diligently his appeal, or fail to secure a reversal of the judgment in the appellate court, the judgment appealed from shall be carried out.

Sec. 2642. Excepted articles; penalty. The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this chapter if they correspond with the following descriptions and limitations, namely:

(a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force;

(b) Medicinal preparations manufactured in accordance with formulas prescribed by The Pharmacopoeia of the United States of America or The National Formulary that are unfit for use for beverage purposes;

(c) Patented, patent and proprietary medicines that are unfit for use for beverage purposes;

(d) Toilet, medicinal and antiseptic preparations and solutions, that are unfit for use for beverage purposes;

(e) Flavoring extracts and syrups that are unfit for use as a beverage or for intoxicating beverage purposes;

(f) Vinogor and preserved sweet cider.

Any person who manufactures any of the articles mentioned in this section may purchase and possess liquor for that purpose, but he shall not sell, use or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, syrup or article named in paragraphs (b), (c) and (d) of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation thereof.

Any person who shall knowingly sell any of the articles mentioned in paragraphs (a), (b), (c) and (d) of this section for beverage purposes or any extract or syrup for intoxicating beverage purposes or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 2631 provided.

Whenever it shall be believed that any article mentioned in this section does not correspond with the descriptions and limitations herein provided, the commission or any inspector or any prosecuting officer may cause an analysis thereof to be made, and if, upon such analysis, it is found that the article does not so correspond, the person who manufactures or sells the same may be prosecuted as a manufacturer or seller of liquor contrary to this chapter.

CHAPTER 83.

MOTOR VEHICLES; CHAUFFEUR'S LICENSE;

REGISTRATION

Part. 1. Chauffeurs

Sec. 2650 A. Definitions. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section:

(a) Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) Motor Vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) Farm Tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(d) School Bus. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school.

(e) Person. Every natural person, firm, co-partnership, association or corporation.

(f) Owner. A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this Act.

(g) Operator. Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

(h) Chauffeur. Every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

(i) Nonresident. Every person who has not actually resided within the Hawaiian Islands for more than 365 consecutive days.

(j) Street or Highway. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(k) Examiner of Chauffeurs. The person or persons appointed pursuant to this subsection. The chief of police of the city and county of Honolulu and the sheriff of any county shall each appoint one or more persons, residing in such city and county or county, each of whom shall be a competent operator of motor vehicles, to be known as the "Examiner of Chauffeurs", and whose duty it shall be to examine into the qualifications and fitness of any person desiring to secure a license to operate a motor vehicle as in this Act provided.

Sec. 2650 B. Operators and Chauffeurs must be licensed.

(a) No person, except those hereinafter expressly exempted shall drive any motor vehicle upon a highway in this Territory unless such person has a valid license as an operator or chauffeur under the provisions of this Act. No person shall operate a motor vehicle as a chauffeur unless he holds a valid chauffeur's license.

(b) Any person applying for a chauffeur's license under this Act must have procured an operator's license.

Sec. 2650 C. What persons are exempt from license. The following persons are exempt from license hereunder:

(a) Any person while driving or operating a motor vehicle in the service or employ of any branch or agency of the Federal government, provided he has received from such branch or agency a license or permit to so operate and drive the motor vehicle and provided such branch or agency has been duly authorized by the Federal government to issue such license or permit.

(b) Any person while driving or operating any road machine, farm tractor or implement of husbandry temporarily operated or moved on a

highway.

(c) Any nonresident who is at least twenty years of age, and who has in his immediate possession a valid operator's license issued to him in his home state or country, may, upon application to the Examiner of Chauffeurs, be granted a permit to operate a motor vehicle in this Territory, only as an operator, for a period of not more than ninety (90) days in any calendar year, provided he has complied with the provisions of Section 2673, Revised Laws of Hawaii 1935.

Sec. 2650 D. What persons shall not be licensed. The Examiner of Chauffeurs shall not issue any license hereunder:

(a) To any person, as an operator or chauffeur, whose license has been suspended, by a court of competent jurisdiction during such suspension period, nor to any person whose license has been revoked until the expiration of one (1) year after the date of such revocation.

(b) To any person as a chauffeur who is under the age of twenty (20) years.

(c) To any person, as an operator or chauffeur, who has been adjudged an habitual drunkard or an addict to the use of narcotic drugs by a court of competent jurisdiction.

(d) To any person, as an operator or chauffeur, who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.

(e) To any person, as an operator or chauffeur, who is required by this Act to take an examination, unless such person shall have successfully passed such examination.

(f) To any person who is required under the provisions of the motor vehicle financial responsibility laws of this Territory to deposit proof of financial responsibility and who has not deposited such proof.

(g) To any person when the Examiner of Chauffeurs has good cause to believe that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; provided, however, that any person denied a license under this or any other section of this Act shall have a right of appeal as hereinafter provided.

(h) To any person, as an operator, who is under the age of fifteen (15) years.

Sec. 2650 E. Special restriction on drivers of school busses and public or common-carrier motor vehicles.

(a) No person who is under the age of twenty (20) years shall drive any motor vehicle while in use as a school bus nor any motor vehicle while in use as a common or public carrier of persons or property, nor in either event until he has been licensed as a chauffeur and re-

ceived a chauffeur's license.

(b) No person shall be granted a chauffeur's license unless he shall have had one (1) year of driving experience prior to the application therefor, nor until he files with the Examiner of Chauffeurs one or more certificates signed by a total of at least three (3) responsible people to whom he is well known certifying as to his good character and habits.

(c) No such license shall be granted until the Examiner of Chauffeurs shall be fully satisfied as to the applicant's competency and fitness.

(d) The Examiner of Chauffeurs shall impose such rules and regulations for the exercise of such chauffeur's license as he may deem necessary for the safety and welfare of the traveling public, which rules and regulations shall, in order to become effective, be approved by the Chief of Police or Sheriff of the county or city and county wherein same are to apply.

(e) This section shall in no way be construed as limiting the powers conferred upon the Public Utilities Commission by Section 7958 of the Revised Laws of Hawaii 1935.

Sec. 2650 F. Instruction permits. Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain an operator's license under this Act, may apply for a temporary instruction permit, and the Examiner of Chauffeurs shall issue such permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of sixty (60) days; provided, that except when operating a motorcycle, such person must be accompanied by a licensed operator or chauffeur who shall actually occupy a seat beside such person.

Sec. 2650 G. Application for license or instruction permit.

(a) Every application for an instruction permit or for an operator's or chauffeur's license shall be made upon a form furnished by the Examiner of Chauffeurs and shall be verified by the applicant before a person authorized to administer oaths, and the Examiner of Chauffeurs and officers serving under him are hereby authorized to administer such oaths without charge. Every application shall be accompanied by a fee of three (\$3.00) dollars which fee shall become a county realization; provided, however, that a person who has paid the three dollar charge upon application and issuance of an instruction permit shall not be required to pay any additional charge upon application and issuance of a regular license, and provided, further, that in every case where the applicant is denied a license, two dollars (\$2.00) of said fee shall be refunded.

(b) Every such application shall state the full name, date of birth, sex, occupation, the residence address and business address, if any, of the applicant, and shall briefly describe the applicant, and shall state whether the applicant has heretofore been licensed as an operator or chauffeur, and, if so, when and in what state or country,

and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal.

Sec. 2650 H. Application of minors.

(a) The application of any person under the age of twenty (20) years for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths by both the father and mother of the applicant, if both are living and have custody of him, or in the event that neither parent is living then by the person or guardian having such custody or by an employer of such minor, or in the event that there is no guardian or employer then by any responsible person who is willing to assume the obligation imposed under this Act upon a person signing the application of a minor.

(b) Any negligence or misconduct of a minor under the age of twenty (20) years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or misconduct except as otherwise provided in the next succeeding paragraph.

(c) In the event that a minor deposits or there is deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him, or if not the owner of a motor vehicle, then with respect to the operation of any motor vehicle; in form and in amounts as required under the motor vehicle financial responsibility laws of this Territory, then the Examiner of Chauffeurs may accept the application of such minor when signed by one parent or guardian of such minor.

Sec. 2650 I. Release from liability. Any person who has signed the application of a minor for a license may thereafter file with the Examiner of Chauffeurs a verified written request that the license of said minor so granted be cancelled. Thereupon the Examiner of Chauffeurs shall cancel the license of said minor and the person who has signed the application of such minor shall be relieved from the liability imposed under this Act on account of any subsequent negligence or wilful misconduct of such minor in operating a motor vehicle.

Sec. 2650 J. Revocation of license upon death of person signing minor's application. The Examiner of Chauffeurs upon receipt of satisfactory evidence of the death of the persons who signed the application of a minor for a license shall cancel such license and shall not issue a new license until such time as a new application, duly signed and verified, shall be made as required by this Act. This provision, however, shall not apply upon the minor's attaining the age of twenty (20) years.

Sec. 2650 K. Examination of Applicants.

(a) The Examiner of Chauffeurs shall examine every applicant for an operator's or chauffeur's license, except as otherwise provided in this Act. Such examination shall be held in the county where the applicant resides within ten (10) days from the date of the filing of the ap-

plication. It shall include a test of the applicant's eye-sight and such further physical and mental examination as the Examiner of Chauffeurs finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning and directing traffic, his knowledge of the traffic laws of this Territory and the traffic regulations of the county or city and county where he resides or where he intends to operate a motor vehicle, and such examination shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. Such examinations shall be conducted in accordance with the standard requirements prescribed by rules and regulations previously made by the Examiner of Chauffeurs and approved by the chief of police or sheriff.

Sec. 2650 L. General provisions governing the issue of licenses to operators and chauffeurs.

(a) The Examiner of Chauffeurs shall, upon payment of the required fee of three (\$3.00) dollars, issue to every applicant qualifying therefor an operator's license as applied for, stating thereon any restrictive provision to which the license issued is subject. Each license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license and in the presence of the Examiner of Chauffeurs or his representative. Furthermore, each license shall bear thereon a photograph of the licensee to be made under the direction of the Examiner of Chauffeurs, or, in lieu thereof, a licensee may at his election consent to have an imprint made of his right thumb under the direction of the Examiner of Chauffeurs and such thumb print shall be superimposed upon the license.

(b) Every license shall be printed in a form prescribed by the Examiner of Chauffeurs, on the reverse side of which there shall be a space where any clerk of court or any district magistrate shall enter all records of conviction of violations of the traffic laws or regulations of the Territory or any political subdivision thereof involving a moving vehicle and all suspensions effected by any court from and after the effective date of this Act.

Sec. 2650 M. Special provisions with respect to the issue of a chauffeur's license. The Examiner of Chauffeurs shall issue with every chauffeur's license a chauffeur's badge of metal with a plainly readable distinguishing number assigned to the licensee stamped thereon and every chauffeur shall display such chauffeur's badge in plain sight upon the band of his cap or hat or upon his outer garment while operating a motor vehicle as a public or common carrier of persons or property.

Sec. 2650 N. License to be carried and exhibited on demand. Every licensee shall have his operator's or chauffeur's license in his immediate possession at all times when operating a motor vehicle, and shall display the same upon demand of a police officer; provided, however, that no person charged with violating this section shall be convicted if he shall produce in court, or proof from the proper official records that he was the holder of, an operator's or chauffeur's license

theretofore issued to him and valid at the time of his arrest.

Sec. 2650 O. Restricted license.

(a) The Examiner of Chauffeurs upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the Examiner of Chauffeurs may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Examiner of Chauffeurs shall indicate such restriction on the usual license form.

(c) The Examiner of Chauffeurs may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same but the licensee shall be entitled to a hearing as hereafter provided.

(d) It shall be a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

Sec. 2650 P. Duplicate certificates and chauffeur's badges. In the event that an instruction permit or operator's or chauffeur's license or chauffeur's badge issued under the provisions of this Act is lost or destroyed, the person to whom the same was issued may upon payment of 50¢ obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the Examiner of Chauffeurs that such permit, license or badge has been lost or destroyed.

Sec. 2650 Q. Expiration of licenses.

(a) Every operator's license shall continue in full force and effect and shall require no renewal. Provided, however, that renewal of such license shall be required in case the holder thereof is convicted, after the effective date of this Act, of furious, heedless or reckless driving, or of unlawful speeding under any law or ordinance of the Territory or any political subdivision thereof.

(b) Every chauffeur's license issued under the provisions of this Act shall expire, unless otherwise revoked or cancelled, one (1) year after the issue thereof and shall be renewable on or before its expiration date upon re-examination and payment of a renewal fee of one (\$1.00) dollars; provided, however, that the Examiner of Chauffeurs may in his discretion waive examination upon renewal of such license.

Sec. 2650 R. Records to be kept by the Examiner of Chauffeurs.

(a) The Examiners of Chauffeurs shall file every application for a license received by him and shall maintain suitable indices containing in alphabetical order:

1. All applications denied with a note on each as to the reason for such denial;
2. All applications granted; and
3. The name of every licensee whose license has been suspended or revoked by a court of competent jurisdiction with a note after each such name as to the reasons for such action.

(b) The Examiner of Chauffeurs shall also file all accident reports and abstracts of court records of convictions received by him under the traffic laws and regulations of the Territory or any political subdivision thereof, and in connection therewith he shall maintain convenient records or make suitable notations in order that an individual record of each licensee, the traffic accidents in which he has been involved and other pertinent data may be readily ascertainable and available for the consideration of the Examiner of Chauffeurs upon any application for a renewal of license and at other suitable times.

Sec. 2650 S. Authority of Examiner of Chauffeurs to cancel license.

(a) The Examiner of Chauffeurs is hereby authorized to cancel any operator's or chauffeur's license upon determining that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the required or correct information in his application or committed any fraud in making such application or in obtaining such license.

(b) Upon such cancellation the licensee shall surrender the license so cancelled and any chauffeur's badge to the Examiner of Chauffeurs.

Sec. 2650 T. Suspending or revoking privileges of nonresident and reporting convictions.

(a) The privilege of driving a motor vehicle on the highways of this Territory given to a nonresident hereunder shall be subject to suspension or revocation in like manner and for like cause as an operator's or chauffeur's license issued hereunder may be suspended or revoked.

(b) The Examiner of Chauffeurs is further authorized, upon receiving a record of the conviction in this Territory of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws or regulations of the Territory or any political subdivision thereof, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

Sec. 2650 U. When court to forward license to Examiner of Chauffeurs.

(a) In every case where a licensee shall be convicted of a violation of this Act or of any traffic law or regulation of the Territory or any political subdivision thereof, involving a moving vehicle whether or not the license is revoked or suspended, the court shall require

the licensee to surrender his license to the court and the clerk of such court or presiding magistrate thereof shall forthwith enter on the reverse side thereof a record of the conviction and make such other disposition of it under the provisions of this Act as in his discretion seems appropriate.

(b) Every court of competent jurisdiction shall forward to the Examiner of Chauffeurs a record of the conviction of any person in such court for a violation of any traffic law or regulation of the Territory or any political subdivision thereof and such court may revoke or suspend the license of such person.

(c) For the purpose of this Act the term "conviction" shall mean a final conviction.

Sec. 2650 V. Mandatory revocation of license by a court. Any court of competent jurisdiction shall forthwith revoke the license of any operator or chauffeur upon a conviction of such operator or chauffeur of any of the following offenses when such conviction has become final:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Any felony in the commission of which a motor vehicle is used.

(d) Failure to stop and render aid as required under the laws of this Territory or any political subdivision thereof in the event of a motor vehicle accident resulting in the death or personal injury of another.

(e) Perjury or the making of a false affidavit or statement under oath to the Examiner of Chauffeurs, or his representative, under this Act, or under any other law relating to the ownership or operation of motor vehicles.

(f) Conviction, or forfeiture of bail not vacated, upon three charges of furious and heedless driving committed within a period of twelve (12) months.

Sec. 2650 W. Discretionary revocation or suspension of license by a court. In addition to the provisions for mandatory revocation of a license set forth in Section 2650 V, any court of competent jurisdiction may, in its discretion, revoke or suspend the license of any operator or chauffeur convicted of a violation of any provision of this Act or of any traffic law or regulation of the Territory or any political subdivision thereof involving a vehicle in motion.

Sec. 2650 X. Period of suspension or revocation. A court of competent jurisdiction shall not suspend a license for a longer period than one (1) year; and when a court has revoked a license, the Examiner of Chauffeurs shall not in any event grant an application for a new license until the expiration of one (1) year after the date of such revocation.

Sec. 2650. Y. Surrender and return of license and badge. The Examiner of Chauffeurs shall require that the license and the badge of any chauffeur whose license is suspended or revoked shall be surrendered to and be retained by the Examiner of Chauffeurs, except that at the end of the period of suspension such license and any chauffeur's badge so surrendered shall be returned to the licensee.

Sec. 2650 Z. Appeal. Any applicant who has been refused a license after at least three (3) examinations, or who has been refused any examination, and every licensee whose license shall have been suspended, revoked or cancelled by the Examiner of Chauffeurs, may appeal from such refusal, suspension, revocation or cancellation to a circuit judge at chambers of the circuit court of the circuit in which the applicant or licensee resides by filing his petition in such court within twenty (20) days of the date of the refusal, suspension, revocation or cancellation; provided, however, that the appeal shall not operate as to a stay to the order or decision appealed from. The appeal shall be subject to such procedure and rules as may be prescribed by the court and the decision of the judge shall be final.

Sec. 2650 AA. No operation under foreign license during revocation or suspension in this Territory. Any resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this Territory has been suspended or revoked as provided in this Act shall not operate a motor vehicle in this Territory under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this Act.

Sec. 2650 BB. Unlawful use of license. It shall be a misdemeanor for any person:

- (a) To display or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious or fraudulently altered operator's or chauffeur's license;
- (b) To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another.
- (c) To display or represent as one's own any operator's or chauffeur's license not issued to him.
- (d) To fail or refuse to surrender to the Examiner of Chauffeurs upon his lawful demand any operator's or chauffeur's license which has been suspended, revoked or cancelled.
- (e) To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

Sec. 2650 CC. Driving while license suspended or revoked. Any person whose operator's or chauffeur's license, or driving privilege as a nonresident has been cancelled, suspended or revoked as provided in this Act; and who shall drive any motor vehicle upon the highways of this Territory while such license or privi-

lege remains cancelled, suspended or revoked, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment for not more than one (1) year, or by a fine of not less than twenty-five (\$25.00) dollars and not more than one thousand (\$1,000.00) dollars, or by both such fine and imprisonment.

Sec. 2650 DD. Permitting unauthorized person to drive. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any provision of this Act.

Sec. 2650 EE. Employing Unlicensed chauffeur. No person shall employ as a chauffeur of a motor vehicle any person who is not then in possession of a license issued as provided in this Act.

Sec. 2650 FF. Renting motor vehicle to another. Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or the Examiner of Chauffeurs or his representative.

Sec. 2650 GG. Penalty for misdemeanor.

(a) It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other laws of the Territory declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of the Territory provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than six months, or by both such fine and imprisonment.

Sec. 2650 HH. Uniformity of Interpretation. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the Territory of Hawaii relating to the licensing of persons operating motor vehicles upon the highways.

Sec. 2650 II. Short Title. This Act may be cited as the Uniform Motor Vehicle Operator's and Chauffeur's License Act.

Sec. 2650 JJ. Constitutionality. If any clause, sentence, paragraph, part or parts of this Act, or the application thereof to any person or circumstances, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the application of this Act to other persons or circumstances, or the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Repeal. Section 2650 to Section 2663, inclusive, Revised Laws of Hawaii 1935, and all other laws or parts thereof inconsistent with any of the provisions of this Act are hereby repealed.

Effective Date. This Act shall take effect on and after the first day of July, A. D. 1937.

## Part 2. Registration

Sec. 2664. Definitions. The following words and phrases used in this subtitle shall have the meaning herein ascribed to them:

1. "Treasurer" or "county treasurer": the treasurer of each county and deputies.
2. "Motor vehicle": every vehicle as herein described which is self-propelled.
3. "Person": every natural person, firm, co-partnership, association or corporation.
4. "Owner": a person having the lawful use or control or the right to the use or control of a motor vehicle under a lease or otherwise for a period of ten or more successive days.
5. "Legal owner": a person who holds the legal title to a motor vehicle or a mortgage thereon.
6. "County": every county and city and county within the Territory.

Sec. 2665. Application for registration. 1. Every owner of a motor vehicle which shall be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided, apply to the treasurer of the county where such vehicle is to be operated, for the registration thereof.

2. Application for the registration of a vehicle shall be made upon the appropriate form furnished by the treasurer and shall contain the name, occupation and address of the owner and legal owner and if the applicant is a member of the United States naval or military forces, the applicant shall give his organization and station. All applications shall also contain a description of the vehicle, including the name of the maker, the motor number and the date first sold by the manufacturer or dealer, and such further description of the vehicle as shall be called for in the form, and such other information as may be required by the treasurer, to establish legal ownership.

3. In the event that the vehicle to be registered should be specially constructed, reconstructed, or an imported vehicle, such fact shall be stated in the application and upon the registration of every imported motor vehicle, which has been registered theretofore in any other state or county, the owner shall surrender to the treasurer his certificates of registration or other evidence of such form of registration as may be in the applicant's possession or control.

4. The provisions of this subtitle requiring the registration of motor vehicles shall not apply to special mobile equipment nor to implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways.

Sec. 2666. County treasurer's duties. It shall be the duty of the county treasurer to examine and to the best of his ability to determine the genuineness and regularity of every registration and transfer of registration of a vehicle as in this subtitle provided, in order that every certificate issued for a vehicle shall contain true statements of the ownership thereof, and to prevent the regis-

tration of a vehicle by any person not entitled thereto, and the treasurer is authorized to require any applicant to furnish such information, in addition to that contained in the application, as may be necessary to satisfy the treasurer of the truth and regularity of the application.

Sec. 2667. New motor vehicle number. The treasurer is authorized to assign a distinguishing motor number to the motor in any motor vehicle where the motor number thereon shall be destroyed or obliterated. Any person destroying or obliterating any motor number on a motor vehicle shall be guilty of a misdemeanor and shall be punished as provided in section 2676.

Sec. 2668. Records of county treasurer. The treasurer shall file each application received and register the vehicle therein described in the owner's name in a permanent record or book to be kept by him for this purpose, as follows:

1. Under a distinctive registration number assigned to the vehicle and to the owner thereof hereinafter referred to as the registration number;
2. Alphabetically under the name of the owner;
3. Numerically under the motor number of the vehicle;
4. The treasurer may also register such vehicle under the serial number of such vehicle or otherwise in his discretion.

A full record of all vehicles registered shall be posted daily by the treasurer in a public place in or about his office.

Sec. 2669. Certificate of registration; certificate of ownership. Upon the registration of a vehicle, the treasurer shall issue a certificate of registration to the owner and a certificate of ownership to the legal owner, which certificates shall meet the following requirements:

1. Both the certificate of registration and the certificate of ownership shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the treasurer;
2. The reverse side of the certificate of ownership only shall contain forms for notice to the treasurer of a transfer of the title or interest of the owner or legal owner and application for registration by the transferee.
3. Containers. Whenever a vehicle is first registered hereunder, the treasurer shall issue a suitable container with the certificate of registration issued for such vehicle. Every owner upon receipt of a certificate of registration shall place the same in the container and shall securely fasten the same in plain sight within the driver's compartment of the vehicle for which the certificate is issued, or in the event the vehicle is a motorcycle, shall fasten the certificate of registration thereto in plain sight or carry such certificate in the tool bag or other convenient receptacle attached to such vehicle. The container shall be furnished by the treasurer for which he shall charge a sum not to exceed fifty cents.

Sec. 2670. Registration; expense. Every certificate of registration issued under this subtitle shall expire at midnight on the 31st day of December of each year and shall be renewed annually before March 1st of each year upon application by the registered owner by presentation of the certificate of registration for the current year, such renewal to take effect as of January 1st of each year. The certificates of registration issued hereunder shall be valid during the registration year only for which they are issued, and the certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until cancelled by the treasurer as provided by law or replaced by new certificates of ownership as hereinafter provided. Upon annual renewal of a certificate of registration, whenever the legal owner of a vehicle is other than the registered owner, the treasurer shall immediately notify such legal owner by mail of the registered number assigned to such vehicle for the ensuing year.

The provisions of this subtitle shall be administered by the treasurer in conjunction with the requirements of section 2157, and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by law and the cost of container provided for in section 2669.

Sec. 2671. Procedure when title of vehicle transferred. 1. Upon a transfer of the title or interest of a legal owner in or to a vehicle registered under the provisions of this subtitle, the person whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the address of the transferee in the appropriate space provided upon the reverse of the certificate.

2. Within ten days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the treasurer, who shall file the same.

3. The provisions of subdivision (2) of this section, requiring a transferee to forward the certificate of ownership after indorsement and the certificate of registration to the treasurer, shall not apply to the transferee of a vehicle who was not intending to and does not drive such vehicle or permit such vehicle to be driven upon the public highways, but every such transferee shall, upon transferring his interest or title to another, give notice of such transfer to the treasurer and indorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner.

4. The treasurer, upon receipt of the certificate of ownership properly indorsed and the certificate of registration of such vehicle, shall register such vehicle, and shall issue to the owner and legal owner entitled thereto by reason of such transfer a new certificate of registration and certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.

5. Until the treasurer shall have issued the new certificate of registration and certificate of ownership as hereinbefore in subdivision (4) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose.

6. In the event of the transfer by operation of law of the title or

interest of a legal owner in and to a vehicle registered under the provisions of this subtitle, as upon inheritance, devise or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the certificate of ownership shall be signed upon the reverse thereof by the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose title or interest is so transferred in lieu of such person. Every such executor, administrator, receiver, trustee, sheriff or other representative hereinabove referred to shall file with the treasurer a notice of any transfer by sale, lease or otherwise by him, of any such vehicle, together with evidence satisfactory to the treasurer of all facts entitling such representative to make such transfer.

7. Nothing in the foregoing subdivisions of this section shall prevent a legal owner from assigning his title or interest in or to a vehicle registered under the provisions of this subtitle to another legal owner at any time without the consent of and without affecting the interest of the holder of the certificate of registration thereof. Upon filing with the treasurer of a certificate of ownership endorsed by the legal owner and a transfer of legal ownership, the treasurer shall, whether the certificate of registration has expired or not, enter the name of the new legal owner upon the records of his office and shall forthwith issue a new certificate of ownership to the new legal owner in the form for original registration; upon so doing, the treasurer shall send to the registered owner a notice by mail of such action.

8. Any person who refuses or neglects to deliver a certificate of ownership to a transferee entitled thereto under the provisions of this subtitle, shall be guilty of a misdemeanor and shall be punished as provided in section 2676.

9. Every dealer, upon transferring a motor vehicle, whether by sale, lease or otherwise, shall immediately give notice of such transfer to the treasurer upon the official form provided by the treasurer. Every such notice shall contain the date of the transfer, the names and addresses of the transferer and transferee, and such description of the vehicle as may be called for in such official form.

Sec. 2672. Dealers in motor vehicles. 1. A manufacturer of or dealer in motor vehicles having an established place of business, owning any such vehicles and operating them upon the public highways exclusively for the purposes of his business, in lieu of registering each such vehicle, may make application upon an official blank provided for that purpose to the treasurer for a general distinguishing number or symbol.

2. Upon receipt of the application, the treasurer shall issue to the applicant a certificate of registration, containing the latter's name and business address and the general distinguishing number or symbol assigned to him in such form and containing such further information as the treasurer may determine, and every vehicle owned or controlled by such manufacturer or dealer, and permitted to be registered under a general distinguishing number, while being operated for the purposes of his business only, shall be regarded as registered thereunder until ten days after being sold.

3. The treasurer shall also, upon receipt of the application, or thereafter furnish to the manufacturer or dealer one or more pair of automobile plates

or single plates for other vehicles required by the applicant; and every such plate shall have displayed upon it the registration number which is assigned to the applicant, with a different letter or symbol on each pair of automobile number plates and on each single plate for other vehicles.

4. No manufacturer or dealer shall operate any motor vehicle, owned or controlled by him, upon any public highway or permit it to be so operated, unless number plates assigned to him are attached thereto, in the manner hereinbefore specified in this subtitle, excepting only that it shall be permissible for such manufacturer or dealer to operate any such vehicle without number plates attached thereto from any vessel, railroad depot or warehouse over the public highways, to the salesrooms or other place of business of such manufacturer or dealer, or to a warehouse or other place of storage.

Every manufacturer or dealer, upon the sale, lease or other transfer by him of a vehicle registered under a general distinguishing number, as herein provided, shall forthwith give notice of the transfer to the treasurer upon the appropriate official form, stating therein the date of the transfer, a description of the vehicle and the name and post office address of the transferee.

5. The treasurer may, at his discretion, grant a temporary permit to operate a vehicle, registration of which has been applied for.

Sec. 2673. Non-residents. A non-resident owner of a motor vehicle which has been duly registered for the current year in the state or county of which he is a resident and in accordance with the laws thereof, may, in lieu of registering such vehicle as otherwise required by this subtitle, apply to the treasurer for the registration thereof as provided in this section.

2: A non-resident owner shall, within ten days after commencing to operate such vehicle or causing or permitting it to be operated within the Territory, apply to the treasurer for the registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner while within the Territory, the registration number of the vehicle as assigned thereto in the state or territory in which the owner is a resident, together with such description of the motor vehicle as may be called for in the form and such other statements of facts as may be required by the treasurer.

3. The treasurer shall file every application received and register the vehicle therein described and the owner thereof in suitable books or on index cards, and shall, without charge, issue to the owner a registration certificate of a distinctive form containing the date of its issue; a brief description of the vehicle and a statement that the owner has procured registration of the vehicle as a non-resident.

4. No non-resident owner of a motor vehicle shall operate any such vehicle or cause or permit it to be operated upon the public highways, either before or while it is registered under this section, unless there shall at all times be displayed thereon the registration number plates assigned to the vehicle for the current calendar year by the country or state of which the owner is a resident, nor, unless the certificate of registration, when issued thereto, shall be placed on the wind-shield of the motor vehicle in the manner to be specified by the treasurer.

5. Every certificate of registration issued pursuant to this section shall be valid not to exceed three months from the date of its issuance.

Sec. 2674. Certificates lost or mutilated. In the event that any certificate of registration or certificate of ownership shall be lost, mutilated or shall have become illegible, the person to whom the same shall have been issued shall immediately make application for and may obtain a duplicate thereof upon furnishing satisfactory information to the treasurer.

Sec. 2675. Official cars. All motor vehicles owned by any foreign government or by a consul or other official representative thereof, or by the United States government, or by the Territory or any political subdivision thereof, shall be registered as herein required by the person having the custody thereof, and such custodian shall display official registration by distinguishing marks thereon which shall be furnished by the treasurer, free of charge, and where motor vehicles are owned by the Territory or any of its municipal subdivisions, such motor vehicles shall bear the inscription provided for in sections 150-152.

Sec. 2675 A. Unlawful removal of motor vehicles from county. It shall be unlawful for any person to remove, attempt to remove, cause to be removed, or assist in so doing, any motor vehicle registered pursuant to the provisions of this subtitle from any county in the Territory to any other place away from such county, unless he is the legal owner thereof or unless the written authorization of the legal owner thereof to said removal shall have first been obtained.

No person owning or having control of any vessel, airplane or other means of transportation, and no agent or employee of such person, shall transport any such motor vehicle from any county in the Territory to any other place away from such county, or accept the same for such transportation, or deliver any bill of lading, order or other written instrument authorizing such transportation, unless the person requesting such transportation (a) shall produce a certificate of ownership showing that he is the legal owner of such motor vehicle or (b) shall produce, if he is not the legal owner thereof, a certificate of registration showing that he is the owner of such motor vehicle and, in addition thereto, the written consent of the legal owner thereof to such transportation.

Sec. 2676. Penalties. Any person who shall violate any of the provisions of this subtitle shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five, nor more than one thousand dollars or by imprisonment for a term not exceeding one year, or by both fine and imprisonment.

#### CHAPTER 84.

#### UNIFORM AUTOMOBILE LIABILITY SECURITY ACT

Sec. 2680. Definitions. As used in this chapter:

"Chauffeur" or "operator" means the person in actual physical control of a motor vehicle upon a highway;

"Chauffeur's license" means the license issued to any person to operate a motor vehicle within the Territory;

"Motor vehicle" means any vehicle for the operation of which upon the

highways of the Territory by a resident thereof registration certificates and plates are required by law;

"Motor vehicle liability policy" means a policy of liability insurance designating by explicit description or appropriate reference all motor vehicles with respect to which coverage is intended to be granted by the policy and insuring to the amounts or limits hereinafter specified the person named therein and any other person using or responsible for the use of any such motor vehicle with the consent, expressed or implied, of the insured against loss from the liability imposed by law upon the insured, or upon such other person for injury to or death of any person other than a person covered as respects such injury or death by any workmen's compensation law and for damage to property other than property of others in charge of the insured or his employees arising out of the maintenance or operation of any such vehicle in the Territory; or a binder pending the issuance of any such policy; or an indorsement to an existing policy as hereinafter provided;

"Motor vehicle operators' policy" means a policy of liability insurance insuring the person named therein to the amounts or limits hereinafter specified against loss from the liability imposed by law upon the insured for injury to or death of any person other than a person covered as respects such injury or death by any workmen's compensation law and for damage to property other than property of others in charge of the insured or his employees, arising out of the operation by the insured of any motor vehicle in the Territory; or a binder pending the issuance of any such policy; or an indorsement to an existing policy as hereinafter provided.

"Owner" has the same meaning as in the laws requiring the registration of motor vehicles within the Territory.

"Person" means a natural person, firm, copartnership, association or corporation;

"Proof of financial responsibility" means proof in a form authorized by this chapter of ability to respond in damages resulting from the operation or ownership of a motor vehicle and arising by reason of personal injury to, or death, of any one person, in the amount of at least five thousand dollars, and subject to such limit for each person injured or killed in an amount of at least ten thousand dollars for such injury to, or the death of, two or more persons in any one accident, and for damage to property in the amount of at least one thousand dollars, resulting from any one accident;

"Treasurer" means the treasurer of the Territory, unless otherwise designated herein.

Sec. 2681. Proof of ability to respond in damages. For the purposes of this chapter, the following shall be deemed proof of ability to respond in damages:

1. When proof of financial responsibility is required as a condition precedent to the granting of a chauffeur's license or to the termination of the suspension thereof, the written certificate of an insurance carrier duly authorized to transact business within the Territory that it has issued to or for the benefit of the person applying for such license or seeking to terminate the suspension thereof, a motor vehicle operator's policy which at the date of the certificate is in full force and effect, and will so continue until after ten days' notice of cancelation shall first have been given to the treasurer;

2. When proof of financial responsibility is required of an owner of a motor vehicle as a condition precedent to the registration thereof or to the termination of the suspension of registration, the written certificate of an insurance carrier duly authorized to transact business within the Territory, that it has issued to or for the benefit of the person applying for such registration or for the termination of the suspension thereof, a motor vehicle liability policy which at the date of the certificate is in full force and effect and will so continue until at least ten days' notice of cancellation shall first have been given to the treasurer. The treasurer shall not accept any such certificate unless all motor vehicles registered in the name of the owner from whom proof is required are covered by the policies mentioned in such certificate or in it and other similar certificates furnished at the same time; and an additional certificate shall be required as a condition precedent to the registration in the name of such owner of any motor vehicle not covered by the certificate or certificates on file;

3. In any case the deposit with the treasurer of a bond conditioned for the payment of the amount hereinbefore required for injury to or death of persons and damage to property arising out of the maintenance or operation by the principal of a motor vehicle within the Territory having for surety a corporation duly authorized to transact a surety business within the Territory, or two or more individuals owning real estate within the Territory, but any bond having individual sureties must be secured by real property, the present value of which after deducting the amount of the bond, must describe the real property and must be approved by the treasurer in all respects, and when so approved, a duplicate original or certified copy thereof shall be filed in the bureau of conveyances when the real property to be affected is unregistered property, and, when registered property is to be affected, shall be filed in the office of the assistant registrar of the land court and be noted upon the certificate or certificates of title covering the property; descriptions of registered property shall contain a reference to the number or numbers of the certificate or certificates of title covering the property; when so filed by the principal the bond shall thereupon become effective and become a lien on the real property therein described; cancellations of such bonds shall be filed in like manner in the office of the registrar of conveyances and assistant registrar of the land court. Any such bond shall expressly provide that it shall not be canceled except after ten days' written notice to the treasurer and shall designate the Territory as obligee, but in no event shall any such bond be cancelable after any loss or damage covered by the bond occurs until such loss or damage is satisfied in the amounts herein provided, and it shall expressly provide that action may be brought against the principal obligor and sureties thereon jointly by any person who may have a cause of action against the principal obligor for damages resulting from a motor vehicle accident. The sureties on the bond shall only be liable to pay any judgment within the limits hereinbefore specified which may be obtained in favor of the plaintiff if the principal obligor fails to pay the same within said limits, within fifteen days.

4. In any case, the deposit with the treasurer of the sum of eleven thousand dollars in cash, which the treasurer shall employ in paying within the limits hereinbefore specified any final judgment or judgments which may be entered against the depositor, subsequent to the date of the deposit.

Sec. 2682. Penalty for executing or presenting forged or unauthorized evidence of ability to respond in damages. Any person who shall forge or without authority sign any certificate or bond intending the same to be used as evidence of ability to respond in damages under this chapter, or any person knowingly fur-

nishing to the treasurer a forged or unauthorized certificate or bond as such evidence, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for not more than thirty days or fined not less than one hundred dollars or more than one thousand dollars, or both.

Sec. 2683. Payment of claim when cash is deposited as evidence of ability to respond in damages. The treasurer shall pay final judgments within the limits hereinabove provided arising out of the maintenance or operation of a motor vehicle by a depositor of cash as proof of ability to respond in damages in the order in which claims are made upon him for payment, but claims shall not be made prior to the date when a judgment becomes final, and any claim made prior to such date shall be void and of no effect. Every claimant shall file with the treasurer a certified transcript of the judgment upon which his claim is based together with a certificate from a judge of the court in which the judgment was entered that the judgment has become final because an appeal was not taken within the time allowed by law or because the appellate court of last resort has affirmed the judgment.

Sec. 2684. Cash deposited not subject to legal process. Money deposited with the treasurer as evidence of ability to respond in damages shall not be subject to attachment, garnishment or execution.

Sec. 2685. Insurance policies must contain provisions to constitute proof of financial responsibility; binders; indorsements. Insurance policies in order to constitute proof of financial responsibility under this chapter, shall be subject to the provisions hereinafter stated; and any insurance carrier which executes a certificate that it has issued a motor vehicle operator's policy or a motor vehicle liability policy for the purpose of enabling any person to furnish proof of financial responsibility hereunder shall be conclusively presumed to have issued the policy mentioned in such certificate subject to such provisions whether or not they are set forth therein.

1. The liability of any insurer under a motor vehicle operator's policy or motor vehicle liability policy shall become absolute whenever loss or damage covered by such policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the insurer to make payment on account of such loss or damage. No such policy shall be canceled or annulled as respects any loss or damage by any agreement between the insurer and the insured after any loss or damage covered by the policy occurs and any such cancellation or annulment shall be void. Upon the recovery of a final judgment against any person for any loss or damage, if the judgment debtor was at the accrual of the cause of action insured against liability therefor under a motor vehicle operator's policy or a motor vehicle liability policy the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment. But the policy may provide that the insured, or any other person covered by the policy, shall reimburse the insurer for payments made on account of any accident, claim, or suit involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits designated in this chapter, the insurer may plead against such judgment creditor, with respect to the amount of the excess limits of liability, any defenses which it may be entitled to plead against the insured. Any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance.

2. The policy, the written application therefor, if any, and any rider

or endorsement which shall not conflict with the provisions of this chapter, together with the provisions of this chapter, shall constitute the entire contract between the parties.

3. The insurer shall, upon the request of the insured, deliver to the insured for filing, or at the request of the insured shall file direct, with the treasurer an appropriate certificate for the purpose of furnishing proof of the assured's financial responsibility, as provided by this chapter.

4. Any insurer authorized to issue motor vehicle operators' policies or motor vehicle liability policies as provided in this chapter may, pending the issuance of such a policy, execute an agreement, to be known as a binder, or may, in lieu of such a policy, issue an indorsement to an existing policy, each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this section shall apply to such binders and indorsements.

This chapter shall not be construed to prevent any insurance carrier from granting any lawful coverage in excess of or in addition to the coverage required by this chapter as proof of financial responsibility; or from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this chapter and not otherwise unlawful.

Sec. 2686. Proof of financial responsibility required when chauffeur's license becomes subject to suspension or revocation. Whenever a chauffeur's license shall be suspended or revoked for heedless or reckless driving as defined in sections 6280 and 6281, or for driving while intoxicated, such license shall not again become effective nor shall a chauffeur's license at any time thereafter be issued to the person whose license was suspended or revoked, until such person has furnished proof of financial responsibility; and whenever the treasurer for any violation, has the right in his discretion to suspend or revoke a chauffeur's license, but is disposed, in the exercise of his discretion, not to do so, he shall nevertheless suspend such license until the holder thereof has furnished proof of financial responsibility.

Any person whose chauffeur's license has been suspended or revoked prior to the effective date of this Act for any cause not specified in said section 2686 as amended by this Act, shall, upon the effective date of this Act, be entitled to have such license restored or to have a new chauffeur's license issued to him without complying with the requirements set forth in said section 2686.

Sec. 2687. Proof of financial responsibility required as condition precedent to issuance of chauffeurs' licenses to persons having certain accident record. Until proof of financial responsibility has been furnished to the treasurer, a chauffeur's license shall not be issued to a person who, within the twelve months' period next preceding such person's application therefor, while operating a motor vehicle either within or outside of the Territory, had more than two accidents, due to his own negligence, which caused injury to persons or damage to property, including motor vehicles operated by such person, amounting in the aggregate to more than two hundred dollars. The amount of damages caused by accidents in which the applicant was involved will be deemed to have been the amounts paid in settlement of claims of other persons and the cost of repairing the motor vehicle driven by the applicant, if all such claims have been settled and such repairs made;

and if such claims have not been paid or such repairs not made, then the amounts claimed by persons injured and by the persons entitled to recover for the death of persons killed and by the owners of property damaged and the cost of repairing the motor vehicle driven by the applicant at the time of the accident as estimated in good faith by the proprietor of a garage or automobile repair shop.

Sec. 2688. Accident record required before issuing chauffeur's license.

Before a chauffeur's license shall be issued to an applicant therefor, the examiner of chauffeurs shall cause him to state specifically the number of accidents causing injury to persons or damage to property, including motor vehicles operated by the applicant, in which the applicant was involved during the preceding twelve months while operating a motor vehicle, either within or without the Territory, and the aggregate amount of damages caused by such accidents.

Sec. 2689. Penalty for failure to furnish correct accident record.

Any person who knowingly fails to give correctly the information required of him by the examiner of chauffeurs in connection with an application for the issuance of a chauffeur's license, shall be ineligible to operate a motor vehicle within the Territory for a period of two years and when the treasurer ascertains that the information was not correctly given he shall revoke such license if one had been issued and no license shall, under any circumstances, be issued until the two-year period has expired. If such person does not hold a chauffeur's license, such license shall not be issued to him until the expiration of the two year period. Upon the expiration of the two year period, such person shall not at any time receive a chauffeur's license until he has furnished proof of financial responsibility.

Sec. 2690. Failure to satisfy judgments.

If within fifteen days after it becomes final, any person fails to satisfy any judgment in excess of one hundred dollars rendered against him by a court of competent jurisdiction in this or any other territory, state or the District of Columbia for damages on account of personal injury or damage to property resulting from the operation by him, his agent or any other person with his expressed or implied consent of a motor vehicle owned by him, or the operation by him or his agent of a motor vehicle not owned by him, his chauffeur's license and all of his registration certificates shall be forthwith suspended by the treasurer upon receiving a certified copy of such final judgment from the court in which the same was rendered and shall remain suspended and shall not have the suspension removed, nor shall any other motor vehicle be thereafter registered in his name, while such judgment remains unsatisfied and subsisting and until he has furnished proof of financial responsibility for future accidents.

If such person is not a resident of the Territory, he shall not be permitted to operate any motor vehicle in the Territory and it shall not be lawful for any other person to operate in the Territory any motor vehicle owned by him while such judgment remains unsatisfied and subsisting and until he has furnished proof of financial responsibility for future accidents.

If after such person has furnished proof of financial responsibility any other such judgment shall be recovered against him for any accident occurring before such proof was furnished, his chauffeur's license and registration certificates shall again be and remain suspended while such other judgment remains unsatisfied and subsisting.

Sec. 2691. What to be deemed satisfaction of judgment. For the purposes of this chapter, but only for such purposes, the following will be deemed a satisfaction of judgments resulting from the ownership or operation of motor vehicles: 1. When five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of one person as the result of any one accident, or 2. When subject to the limit of five thousand dollars for each person the sum of ten thousand dollars been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or death of more than one person as the result of any one accident, or 3. When one thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount for damage to property as the result of any one accident.

Sec. 2692. Certification of judgments and sentences. It shall be the duty of any court of the Territory in which any judgment or sentence suspending or revoking a chauffeur's license shall be made or entered, or in which any judgment for damages resulting from the operation of a motor vehicle is rendered, to forward immediately to the treasurer a certified copy of such judgment or sentence or a transcript thereof. In the event the defendant is a non-resident it shall be the duty of the treasurer to submit to the treasurer or other officer of the Territory, state or District of Columbia of which the defendant is a resident a certified copy of such sentence or judgment.

Sec. 2693. Proof of financial responsibility required of minors. No chauffeur's license shall be issued to any person who is less than fifteen years of age nor shall any motor vehicle owned by any such person be registered until such person has furnished proof of financial responsibility together with a certificate signed by either or both of the parents, as the treasurer may require, or the legal guardian of such person approving the issuance of a chauffeur's license or the registration of the motor vehicle, as the case may be.

Sec. 2694. Disability of operator whose license is suspended under this chapter to operate under foreign license. Any person whose chauffeur's license has been suspended or revoked, or to whom a chauffeur's license cannot be issued until he has furnished proof of financial responsibility, shall not have the privilege of operating a motor vehicle within the Territory under any chauffeur's or operator's license issued by any other territory, state or District of Columbia until he has furnished to the treasurer proof of financial responsibility.

Sec. 2695. Suspension of chauffeur's license or registration certificates upon cancelation of insurance or surety bond. Whenever the treasurer is notified of the cancelation of a policy of insurance mentioned in a certificate furnished as proof of ability to respond in damages or of a surety bond furnished as such evidence, he shall forthwith suspend the chauffeur's license and registration certificate, if any, in connection with the issuance of which such proof was furnished, and such cancelation shall remain effective until other proof of financial responsibility has been furnished to the treasurer.

Sec. 2696. Proof of financial responsibility to be maintained. Whenever in accordance with the provisions of this chapter a person has furnished proof of financial responsibility for the purpose of obtaining a chauffeur's license or the registration of a motor vehicle owned by him it shall be obligatory upon such person thereafter to maintain such proof at all times; and in the event that such proof lapses or becomes diminished in security or amount it shall be the duty of the

treasurer to suspend the chauffeur's license and certificates, if any, in connection with which such proof was furnished, until proof sufficient in amount has again been furnished.

Sec. 2697. Penalty for operating motor vehicle contrary to provisions of this chapter. Any person who operates a motor vehicle within the Territory after his chauffeur's license has been suspended or revoked, and while such license remains suspended or revoked, and any person a non-resident of the Territory who operates a motor vehicle within the Territory contrary to the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment for not more than one year or by fine not exceeding one thousand dollars or by both fine and imprisonment.

Sec. 2698. Substitution of evidence of ability to respond in damages; cancelation of bond or refund of cash. Whenever proof of financial responsibility has been furnished to the treasurer he may upon request permit the substitution of proof of another kind for the particular evidence of ability to respond in damages which has been filed or deposited with him; and whenever a person has deposited with the treasurer as proof of his ability to respond in damages a bond or cash in the amount of eleven thousand dollars as hereinbefore provided the treasurer may permit the bond to be canceled or return or cause to be returned such cash or the balance thereof remaining in the hands of the treasurer upon the surrender for cancelation of such person's chauffeur's license and his registration certificates and the filing with the treasurer of an affidavit that he has abandoned his residence in the Territory or that he has made a bona fide sale of all motor vehicles owned by him and does not intend to own or operate any motor vehicle for a period of at least one year.

Sec. 2699. Penalty for operating motor vehicle after cancelation of bond or refund of cash. Any person who has induced the treasurer to permit his bond to be canceled or to return or cause to be returned cash or the balance thereof deposited as evidence of ability to respond in damages, as provided in the preceding section, and thereafter without having furnished to the treasurer proof of financial responsibility, operates a motor vehicle within the Territory or permits any other person to operate within the Territory a motor vehicle owned by him, shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both.

Sec. 2700. Treasurer to furnish information to insurers, sureties and others. The treasurer shall upon request furnish to any insurer, surety, or other person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person and if there be no record of any conviction of such person of a violation of any provision of the laws regulating the operation of motor vehicles on the highways or of any injury or damage caused by such person in operating motor vehicles the treasurer shall so certify. The treasurer shall require the payment of a fee of twenty-five cents for each certificate furnished hereunder.

Sec. 2701. Treasurer to furnish information to persons injured in motor accidents, etc. Upon written request the treasurer shall furnish to any person who has been injured or whose property has been damaged by any motor vehicle or to those entitled to recover for the death of a person injured by a motor vehicle all

information of record in his office pertaining to the evidence of the financial responsibility of the operator or owner of the motor vehicle involved in such injury or damage.

Sec. 2702. Record of registration. The treasurer of each county and the city and county shall, upon the registration of any motor vehicle, furnish the treasurer with a full record of such registration.

Sec. 2703. Examiners of chauffeurs to furnish treasurer with records. Upon the issuance of any chauffeur's license the examiner of chauffeurs, as provided for under the provisions of chapter 83, part 1, shall furnish the treasurer with a record of such fact.

Sec. 2704. Sworn statement to be made prior to issuance of chauffeur's license. No chauffeur's license shall be granted by any examiner of chauffeurs until the applicant therefor has made a sworn statement to the effect that he has at no time prior to such application been required by the treasurer to furnish proof of financial responsibility under this chapter or that, having been so required, he has complied therewith. Any person who knowingly makes such statement falsely shall be subject to the penalty provided in section 2689.

Sec. 2705. Cancellation when. Failure to furnish proof of financial responsibility when required under the provisions of this chapter shall be cause for cancellation of the registration of any and all motor vehicles registered by the person so failing. Upon being advised by the treasurer of such delinquency, the treasurer of any county or the city and county shall cancel the registration of all motor vehicles registered in the name of the delinquent and shall refuse to register any vehicle belonging to or used by such delinquent until he has presented a certificate of the treasurer to the effect that he has furnished proof of financial responsibility or is not required to furnish such proof within the meaning of this chapter.

Sec. 2706. Administration; duties and powers of treasurer; rules and regulations. It shall be the duty of the treasurer of the Territory to administer the provisions of this chapter. The treasurer is empowered to revoke, cancel or suspend operators' licenses within the Territory to the extent necessary fully to effectuate the purposes of this chapter. The treasurer shall have power to adopt and promulgate, amend and repeal reasonable and uniform rules and regulations to govern the administration of this chapter. It shall be the duty of the sheriff or chief of police, as the case may be, and the treasurer of each county and city and county to comply with such rules and regulations and when so requested by the treasurer they shall furnish him with all information and data pertaining to the proper administration of this chapter.

## CHAPTER 85.

## WEIGHTS AND MEASURES

Sec. 2710. Definitions. Whenever used in this chapter: "sheriff" shall include the sheriff of each county and of the city and county of Honolulu; and "scales," "weights," "beams," "weighing machines," "devices," "appliances," "measures" or "instruments" shall include all mechanical means for the weighing or measuring of any article or commodity whatsoever.

Sec. 2711. Standards; tests. It shall be the duty of the sheriff to procure and keep a standard set of scales, beams, weights and measures; and he shall, semi-annually, or oftener in his discretion, cause all scales, beams, weighing machines, measures--liquid or dry,--devices and appliances used in the ascertainment of weight or of measure, used by any person, in the buying or selling or the transportation, or the receiving for shipment, or in the ascertainment of weight or measure, of goods, wares, merchandise, liquids, fruits, vegetables or any other commodity, to be tested by such standard scales, beams, weights and measures, and whenever such scales, beams, weighing machines, measures, devices or appliances shall be found to correspond to such standard scales, beams, weights and measures in his possession, he shall cause to be sealed or marked, under his name, each scale, beam, weighing machine, measure, device or appliance with an appropriate device showing that such scale, beam, weighing machine, measure, device or appliance is correct, and the date of the inspection, which device shall be placed so as to be easily seen.

Sec. 2712. Sealing, record of sales. All weighing appliances and measures as mentioned and included in section 2711 shall be so sealed within two days of the date of purchase and of the acceptance and delivery of such appliance or measure, and notice thereof, by both the buyer and the seller shall, within such two days, be given to the sheriff upon forms as he may provide and which shall be recorded by him.

Sec. 2713. Incorrect weights and measures. The sheriff shall condemn and seize, and may destroy any incorrect scale, beam, weighing machine, measure, device or appliance which in his best judgment is not susceptible of repair; but any scale, beam, weighing machine, measure, device or appliance which shall be found to be incorrect, but which in his best judgment is susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "out of order." The owner or user of any scale, beam, weighing machine, measure, device or appliance, which has been marked "out of order" as herein provided, may have the same repaired or corrected within thirty days, but until the same has been repaired or corrected and tested as herein provided, the owner or user thereof may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sheriff.

When the same has been repaired or corrected, the owner or user thereof shall notify the sheriff who shall again cause such scale, beam, weighing machine, measure, device or appliance, which had been found incorrect and marked as herein provided, to be tested, and until such scale, beam, weighing machine, measure, device or appliance has been retested as hereinbefore provided and found correct, the same shall not be used or in any way disposed of by the owner or user. When any such scale, beam, weighing machine, measure, device or appliance has been repaired or corrected and has been retested and found correct, the sheriff shall cause the tag or device with the words "out of order" to be removed therefrom, and shall seal or mark such scale, beam, weighing machine, measure, device or appliance in the manner provided for the marking of the same where, upon inspection, it is found correct.

Sec. 2714. Identification of owner. Any person presenting any weighing appliance or measure to the sheriff for verification and testing shall give his full name, address, and description of occupation and business and the purpose for which such weighing appliance or measure is to be used; such information shall be recorded by the sheriff.

Sec. 2715. Tolerance or errors permissible in excess or deficiency.  
 The following shall be tolerance or permissible error, either in excess or deficiency:

EVEN BALANCE OR EQUAL ARM SCALES:

<u>Load</u> Pounds	<u>Tolerance on parts</u> <u>requiring employment</u>	<u>Tolerance on beam</u> <u>or reading face</u>	<u>Sensibility</u> <u>reciprocal</u>
	Ounces	Ounces	Ounces
1	1/16	1/16	1/8
2	1/16	1/8	1/8
4 to 6	1/8	3/16	1/4
8 to 12	1/4	3/8	1/2
15 to 20	5/16	1/2	3/4
24 to 30	3/8	5/8	1
40	7/16	5/8	1-1/4
50	1/2	3/4	1-1/2

The manufacturers' tolerance on new scales shall not be greater than one-half the values given.

The term "sensibility reciprocal" shall mean the weight required on the pan, plate or platform to cause it to move from its positions of equilibrium when the scale is in balance, to a position of equilibrium at the limit of its motion.

UNEQUAL ARM OR MULTIPLE LEVER  
COUNTER SCALES USING RATIO WEIGHTS:

The tolerance on beam or reading face shall be the same as for equal arm scales.

Pounds	On ratio	Pounds	On ratio
50	1/2 ounce	400	4 ounces
100	1 "	500	5 "
200	2 "	600	6 "
300	3 "		

The sensibility reciprocal shall not exceed that of equal arm scales.

SPRING SCALES

The term "spring scale" shall mean a scale in which the weight indications depend on the change of shape or of dimensions of an elastic body or system of bodies; provided, however, that scales in which metallic bands or strips are employed for the primary purpose of fulfilling the functions of knife edges and bearings shall not be considered within the meaning of this definition.

Tolerances. The tolerance allowable on all spring scales shall not be greater than one-fourth of one minimum graduation on the reading face or dial; pro-

vided, that the manufacturers' tolerance on new scales shall not be greater than one-half of the values given.

COMPUTING SCALES

The tolerance on all computing scales shall be no greater than one-fourth of one minimum graduation at any point on the dial or reading face; provided, that the manufacturers' tolerance on new computing scales shall not be greater than one-eighth of such minimum graduation.

AUTOMATIC OR DIAL SCALES OTHER THAN  
SPRING SCALES OR COMPUTING SCALES:

The tolerance on automatic or dial scales, other than spring scales or computing scales, shall be one-fourth of one minimum graduation up to the first half of the capacity of the dial and one-half of one graduation thereafter and to the full capacity of the scale.

All liquid or dry measures shall be in accordance with standard.

PLATFORM SCALES:

Class A shall include all portable platform scales and dormant type scales where installed inside of a building having side walls and roof.

Class B shall include wagon scales, motor truck scales, railroad scales and also dormant type scales not inside of building.

Tolerances. Manufacturers' tolerance on new scales shall not be greater than one-half the following.

<u>Load Pounds</u>	<u>Tolerance on ratio Ounces.</u>	<u>Class A on beam Ounce</u>	<u>Tolerance on ratio Ounces</u>	<u>Class B on beam Pounds</u>
50	1/2	1		
100	1	2		
200	2	4		
300	3	6		
400	4	8		
500	5	10	10	1-1/4
600	6	12	12	1-1/2
800	8	1 pound	1 pound	2 pounds
1000	8	1 "	1 "	2 "
2000	1 pound	2 pounds	2 pounds	4 "
4000			4 "	8 "
10000			10 "	20 "
20000			20 "	40 "
30000			30 "	60 "

The sensibility reciprocal on all platform scales, except counter scales, shall not be greater than two minimum graduations on the beam; and on new scales not greater than one-half that amount.

Sec. 2716. Method of testing scales. The method of testing scales shall be as follows:

All counter scales, spring scales and computing scales shall be tested to their full capacity, and at half capacity at each point of the platform bearing. Portable scales of five hundred to a thousand pound capacity must be tested to one-fourth their capacity and at each point of bearing of the platform. Larger portable and dormant type scales must be tested to five hundred pounds and at each point of bearing of the platform. Wagon and motor truck scales must be tested with one thousand pounds, and, where possible, with a load approximating one-fourth the scale capacity as a dead load and a thousand pound test thereafter. The thousand pound test must be applied at the point of each bearing of the platform. Test for railroad track scales of fifty tons capacity or over, shall be not less than ten thousand pounds or not greater than their rated sectional capacity, and shall be applied at each point of bearing of the platform.

Sec. 2717. Inspectors. The sheriff may deputize any one of the employees in his department to aid him in the performance of his duties under this chapter.

Sec. 2718: Standards. The standards of weights and measures shall be those adopted, and now used, or that may be adopted and used by the United States.

Sec. 2719: Bushel. Whenever any wheat, rye, Indian corn, barley or oats shall be sold by the bushel, and no special agreement as to the measurement shall be made by the parties, the bushel shall consist of sixty pounds of wheat, and fifty pounds of rye, of fifty-six pounds of Indian corn, or forty-eight pounds of barley and of thirty-two pounds of oats.

Sec. 2720. Fees. The charges for testing and certification shall be as follows: for scales from one to thirty pounds weight capacity, fifty cents; for scales from over thirty to three hundred pounds weight capacity, one dollar and twenty-five cents; for scales from over three hundred to one thousand pounds weight capacity, two dollars; and for scales over one thousand pounds weight capacity, two dollars and fifty cents; for measures of extension, fifty cents; for pump or pumping measure or appliance, fifty cents; for any other appliance as used for weighing or measuring and not specifically mentioned therein, fifty cents; provided, however, that no charge shall be made for more than two inspections in any one year; all fees collected under the provisions of this chapter shall be paid into the treasury of the county or city and county for which the inspection, testing and sealing is made, as a municipal realization.

Sec. 2721. Unlawful use of weights and measures; penalty. If any person shall, for any of the purposes mentioned in section 2711, use or cause to be used any weighing or measuring machine or appliance as mentioned in or necessarily included within the meaning of this chapter, and which weighing or measuring machine or appliance has not been duly sealed or marked, or which weighing or measuring machine or appliance has been marked "out of order" and has not been retested and found correct, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars, and the court may order the confiscation and destruction of such weighing or measuring machine or appliance.

Any person who shall be injured or defrauded by the use of any such weighing or measuring machine or appliance may maintain an action for damages against the offender, and, if judgment be rendered in his favor, he shall recover

double damages and costs of the action.

Sec. 2722. Unlawful changing, removal of marks; penalty. Any person who shall wilfully or fraudulently change any weighing or measuring machine or appliance as mentioned in or necessarily included within the meaning of this chapter, after the same has been inspected, tested and sealed or marked by the sheriff, or who shall change, remove or destroy any tag, seal or mark which may have been placed in or thereon by the sheriff for the purposes of this chapter, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars.

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